

CA1

Z1

-48T21



3 1761 11650959 7

ROYAL COMMISSION ON TRANSPORTATION  
SUMMARY OF  
TRANSCRIPT OF EVIDENCE

Feb. 6 to May 1, 1950.

By- G.R. HUNTER.



14125Submission of Mr. E. J. Young of Toronto

Suggests the reason why the railways have not been able to share in the general prosperity of the country is that they have not sufficient control over their own affairs. Points out the B.T.C. has authority over the services the railways render and the rates they charge, but it is not responsible for their solvency. Their wage costs are at the mercy of the trade unions, which seem to be quite indifferent to matters of solvency. The railways themselves seem to have no power except to do as they are told.

14123

Does not suggest that railways should have complete control in matters of freight rates and wage rates, but it is suggested that no business could hope to survive if its management had as little control as the railways have over matters of such vital importance.

The largest item of railway operating cost is wages. Points out that the unions seem to have it in their power to enforce whatever wage demands they choose to make, regardless of the value of their services, or the suffering their actions might inflict on others.

14129

Completes submission by stating as follows:

"The most important things to remember in any study of our railway problem are, (1) that Canada, more than most countries, depends for her prosperity on her export trade; (2) that we cannot control the prices we receive for our exports, but must sell them for whatever the world will pay; (3) that every addition to the cost of transporting our exports must come out of the pockets of those Canadians engaged in producing them; and (4) that if we would keep our own people employed, all our domestic prices and costs, including railway costs, must be kept in reasonable harmony with the prices we receive for our exports. If we forget these things or fail to follow the course they indicate, neither Canada nor her railways can prosper."

14134

Mr. Young says that the more improvements the railways make, the better, so far as the B.T.C. is concerned, but points out that the B.T.C. does not take any responsibility for putting them in a position to do this.

14139

Mr. Shepard refers to C.P.R. Report for 1948, where it is stated:



"The general wage increase of 17 cents per hour which was made effective March 1, 1948 added approximately 22.5 million to expenses while changes provided for in agreement with employees in respect of wages, vacations and working conditions increased pay rolls by \$2,000,000."

14140

Mr. Young thinks freight rates should still be under the control of the B.T.C., but the B.T.C. should assume some responsibility for keeping the railways solvent.

The B.T.C. should regulate rates with regard to what the traffic will bear and the solvency of the railways and then, in cases where the national interest requires the railways to render uneconomic service, they should be allowed to charge rates high enough to cover the cost of such services and the government itself should pay a portion of the charges.

14142

Witness thinks unions should be subject to Combines Act.

14143

Would not be in favour of denying labour the right to strike, but would insist on labour maintaining law and order while on strike.

14151

Witness agrees that if the railways are reducing their rates for the sole purpose of eliminating truck competition, he would not be in favour of this action. Points out, however, that he has never heard that the railways were doing this.

14152

Witness thinks that payment of a subsidy by the Government to the industry, e.g. agricultural industry, in regard to grain rates, rather than have the railways reduce their rates below a remunerative level, would take too long and would require too much machinery. He thinks it would have to be done by a subsidy to the railways.

14154

Where the C.N.R. takes over bankrupt railways, the witness thinks that they should be allowed fees and the Government should make up the difference. He thinks these roads should be so operated that their accounts are kept entirely separate from the Canadian National accounts so the Canadian National, as a railroad, would have a chance to operate efficiently, and to run these roads charging rates on a management basis for the government.

14156

Refers to the fact that grain is shipped through Halifax and St. John from the point of view of national policy when, in fact, it would be a much shorter haul



to deliver it somewhere else, e.g. Portland. Where such a policy is in the national interest, witness thinks the additional cost should be borne by the nation and not by the railroads.

14158

Where national policy requires certain services of the railways, then the railways should not be required to make financial sacrifices in carrying them out, and the sacrifices should be met by the nation.

14161

Witness agrees that in some cases there should be quick and almost immediate granting of temporary relief, but he is not prepared to lay this down as a rule to be followed in all cases. He points out that as far as he knows, the B.T.C. has power to grant temporary relief at the present time.

14164

Mr. Young, referring to the question of unions bargaining for their employees, maintains that it should collect its own fees from the members of the railways and the company should not be required to collect them, and those who do not belong should not be required to pay.

14165

Witness suggests that uneconomic rates at the present time are the Crows' Nest rates and the rate for grain going through the Maritime ports.

14166

Witness thinks that Crows' Nest rates should be treated in somewhat the same manner as subsidies under the M.F.R.A.

14170

Mr. Young points out that the board of a privately owned railway is responsible to its shareholders, and they have one purpose in view which is dividends - earnings, but the board of a publicly owned railway has to have regard for certain national interests for which the government is responsible, and, therefore, has to keep those in mind.

14172

Mr. Young feels the President of the C.P.R. is like the president of any other railway or any other organization, and naturally wants to stand in with labour to promote harmonious relations in the organization. He does not think, however, there is any greater pressure on him to stand in right with labour than in the case of the C.P.R.

14174

Submission by T. S. Woollings and Company, Limited.  
Witness - Mr. Harold Duffy.

14176

Refers to I.C.C. decision in ex parte 166:

Witness is asked if there is any possibility of joint hearings between the B.T.C. and the I.C.C., and replies that he has never heard of any.



14176-77

"Joint international rates to and from Canada or Mexico may be increased to the same extent and in the same manner as is herein authorized within the United States. Where rates on international traffic are made by the use of combinations on the international border, the factor within the United States to or from the international border may be increased to the same extent and in the same manner as is herein authorized within the United States." . . . .

"International rates to and from Canada or Mexico whether single factor or combinations, may, within the limits of their jurisdiction, be increased to the same extent and in the same manner as herein authorized within the United States."

14192

Mr. Duffy refers to the 21% increase allowed Canadian railways and points out that this increase did not in any way affect the joint through international rates as they applied to pulpwood.

14207

It is suggested to Mr. Duffy that the reason why they did not take these local combinations and take delivery is because the joint through international rates on which pulpwood is now moving is still lower than the combination of local rates.

14208

It is pointed out by Mr. Sinclair to the Commission that negotiations are pending between the shippers and the carriers involved in connection with the international movement of pulpwood, and that an offer has been made and is now being considered by the American carriers.

14224-25

Refers to examples of divisions between Canadian and American carriers on international traffic.

14240

If the Canadian railways did not take the benefit of increases in international rates allowed by the I.C.C., the result would be that the American carriers would take the entire amount of the increase, the shipper would pay the same rate, and the Canadian carrier would get no proportion of it.

14241

Mr. Sinclair points out that there are through rates from Canada to the United States, and there are also through rates on shipments from the United States to Canada in certain instances, but that it does not necessarily follow that there is full scale in both directions.

14247

Witness is asked if there is any possibility of joint hearings between the B.T.C. and the I.C.C., and replies that he has never heard of any.

"Joint international rates to and from Canada or Mexico may be imposed to the same extent and in the same manner as in respect of international traffic within the United States. Where rates on international traffic are made by the use of combinations on the international border, the United States may be imposed to the same extent and in the same manner as in respect of international traffic within the United States."

"International rates to and from Canada or Mexico may be imposed to the same extent and in the same manner as in respect of international traffic within the United States. Where rates on international traffic are made by the use of combinations on the international border, the United States may be imposed to the same extent and in the same manner as in respect of international traffic within the United States."

Mr. Duffy refers to the fact that the Canadian railways and points out that this interest did not in any way affect the joint through international rates as they applied to railroads.

It is suggested to Mr. Duffy that the through rates from the United States to the Canadian railways and points out that this interest did not in any way affect the joint through international rates as they applied to railroads.

It is pointed out by Mr. Duffy that the Canadian railways and points out that this interest did not in any way affect the joint through international rates as they applied to railroads.

Digitized by the Internet Archive  
in 2023 with funding from  
University of Toronto

It is pointed out by Mr. Duffy that the Canadian railways and points out that this interest did not in any way affect the joint through international rates as they applied to railroads.

Mr. Duffy points out that there are through rates from Canada to the United States, and there are also through rates on shipments from the United States to Canada in certain instances, but that it does not necessarily follow that there is full access to both directions.

Witness is asked if there is any possibility of joint through rates between the U.S.C. and the I.C.C., and replies that he has never heard of any.

14255

Submission of the National Livestock Records and the  
Holstein-Friesian Association of Canada.

This submission deals with special freight rates applicable to pedigreed livestock for breeding purposes.

14257

The submission contends that this type of traffic could never be expected to be fully compensatory. The revenue lost by the railways in this encouraging the distribution of better breed-stock has been small in relation to the increased business received from the livestock industry.

14260

Witness is asked whether their association thinks that rates on other commodities should be increased to a higher percentage so that special concessions should be given to the movement of pedigreed livestock and his answer is yes. The witness is also asked if he knows of any instances where the farmers have evidenced their mutual interest in railway problems by coming forward and supporting them before the B.T.C. for securing rates that would give them an adequate level of earnings, and his answer is no.

14262

Witness feels that in a case where rates have been established for a long period of time that before the railways should have authority to cancel them, there should be some provision for a hearing of the case.

14263

Thinks that in a case such as this when a hearing is held the B.T.C. should check on the reasons why the rate was originally put into effect and see if those reasons still hold good, and if they did, their finding presumably would be that the subnormal rate should still apply.

14271

A second witness on behalf of the Holstein-Friesian Association - Mr. P. D. MacArthur - says that what they had before was half of the going rate, and it is not that they want to maintain that rate at the same amount, but rather they want to maintain the rate at a level which would be half the going rate.

14274

Witness agrees that trucks carrying livestock do not give a preferential rate to purebred livestock.

14281

Submission of Canada Steamship Lines Limited.  
Witness Mr. Hazen Hulsari, F.C.

This submission deals with the question of agreed charges.



Points out that agreed charges were first introduced into Canada by the general legislation known as the Transport Act, 1913, by which forms of transportation (other than rail transportation) subject to Dominion jurisdiction were for the first time subjected to rate regulation.

14282

Submission points out that an agreed charge is no more nor less than a private contract whereby a carrier undertakes to transport the goods of an individual shipper on terms more favourable than those offered by the carrier to the general public in its published tariffs.

14283-83

Points out the accepted principles of rate making as follows:

- "(a) That the facilities of the carrier must be made available to all comers;
- (b) That the carrier shall charge equal rates for like services to all comers;
- (c) That complete information as to the carrier's rates shall be made available to the public by means of published tariffs;
- (d) That competing carriers shall be free to meet these rates; and
- (e) That one carrier shall not offer 'unreasonable' rates, whether for the purpose of capturing business from competitors or otherwise."

14284

Refers to the Privy Council decision in C.N.R. vs C.S.L. (1945 A.C. 204) at page 213.



C.2.L. contends that agreed charges if employed without restriction could very rapidly have brought about a complete disruption of the rate structure, effectively destroyed all semblance of rate control and in fact defeated the very purpose for which the Transport Act was passed. For this reason, therefore, Parliament laid down a number of safeguards, some of which are as follows:-

- (a) Approval of the Transport Board as the regulating authority was required;
- (b) Strict rules as to prior publication and notice to other interested parties coupled with the right to oppose approval were laid down;
- (c) Interested parties were given a right to provoke a re-hearing on the question of approval after one year;
- (d) The two Railway Companies, indeed all rail carriers, where competing, were required to join in making any agreed charge;
- (e) The Board was directed to have regard, in considering the question of approval, to the effect of the proposed agreed charge on the net revenue of the carrier making it and on the business of any shipper objecting to the approval;
- (f) The Board was directed "to have regard to all considerations which appear to it to be relevant", which was held by the Privy Council in the C.M.A. vs. C.2.L. case (supra) to include the effect of the proposed agreed charge on the business of a competing carrier;
- (g) It was laid down that the rate fixed by the agreed charge must be expressed in cents per hundred pounds so that it could be related to normal tariffs;
- (h) The right was given to any competing shipper to apply to the Board to have the same rate fixed for his business;
- (i) A general right of review in the national interest on complaint to the Minister "by a representative body of carriers" was provided for.

Submission points out that amendment suggested by C.M.A. would do away with all but the last two of these safeguards.

C.M.A. amendment would also permit any regulated carrier to employ the agreed charge, indiscriminately and without control, for the purpose of capturing business from competitors, thus completely disrupting the established rate structure. It would also place the water carriers in an impossible position since in practice the agreed charge is not available to them.



14292

Submission points out that in the transport of freight in Canada water transport was the first in the field and has been competitive from the outset. Road transport came second and railways third.

Submission points out regulation of rates is necessary in the national interest not only for the protection of the shipping public but also for the protection of the carriers themselves against the effects of ruinous competition which has from time to time arisen.

14293

Thinks that even greater publicity than the normal filing of tariffs is essential where there is a departure from the regular published rates such as involved in an agreed charge. Any lack of publicity could only work to the unfair disadvantage (a) of competing shippers and (b) to competing carriers.

14294

Thinks it is in the public interest that competition should be preserved on a fair and equitable basis and that this can only be preserved if the water carriers are permitted to live and not be driven out of business by such a grossly unfair departure from established rate making principles as the amendment advocated by the C.B.C. would permit.

14300

Submits that the agreed charge is an exceptional method of rate making, the existence of which would have no justification whatever were all forms of transportation subjected to proper control. For so long as it is permitted, it must be circumscribed by all necessary safeguards to prevent one regulated carrier from taking an unfair advantage over other regulated carriers. The safeguards now contained in the Transport Act, as supplemented by Privy Council decision in C.B.C. vs. C.B.L. Case, are the very minimum necessary in this connection.

14301

Witness points out that any shipper who is going to make a permanent deal with a carrier in the way of an agreed charge wants an all-year-round service and is not going to tie himself up to ship all his business by water carrier during the summer only. C.B.L. contends that water carriers cannot go out with this weapon, namely the agreed charge, and buy up the business of any shipper because they are not in a position to contract to handle all his business all the year round.

14304

Refers to C.B.C. vs. C.B.L. Case and points out that that was not a case where the agreed charge was being used to meet water competition in the sense of meeting something new that had come into the picture. It was an attempt to obtain business from the water lines by means of an agreed charge and it placed water lines at an unfair disadvantage. The B.T.C. held that in all the circumstances and having regard to the effect of the business of the other regulated carrier, regulated water line, that it would not approve these two agreed charges.



14305

Points out that the amendment to Section 36 as suggested by C.A.A. would leave out all the safeguards except two, one that a competing shipper may apply to come in under an agreed charge rate if he can show that he is in a position to do so, and two - the U.S.A. do not purport to deal with Section 36 which is the one that provides for an application or a complaint to the Minister in the national interest by a representative body of carriers.

14308

Witness thinks the agreed charge is a bad means of making rates where you have a regulatory system because it is contrary to regulation, it is the antithesis of regulation. Thinks it can only be justified where it is used as a temporary expedient pending adequate control of all media of transportation.

14313

Goods in bulk are excluded from the Transport Act by Section 37 - they are therefore not regulated by the U.S.C. and the shippers can charge any rate they wish or do as they please.

14314

In dollars and cents the division between bulk and package goods is approximately 60% for bulk and 40% for package freight.

14318

Witness thinks that due to the shortness of the navigation season it is not practical for water carriers to make agreed charges under the Transport Act.

14337

Witness says that it is his understanding that carriage of package goods operated at a small profit in 1938 or 1939. During war years it was operated with a loss until the rate increases came into effect and there was a very small profit in 1943.

14343

Witness thinks there should be regulation of the transport medium whether it be rail, water or truck because when these various transport media are unregulated it leads to the uneconomic or the possibility of the uneconomic use of the unregulated media.

14351

Witness thinks the agreed charge as it exists in the Transport Act now works to the disadvantage of the water carriers.

14355

Mr. Fume, on behalf of the Canadian Automotive Transportation Association, points out while apparently the movement of goods from Quebec into Ontario is regulated as to rates, the movement of goods from Ontario to Quebec is apparently not because there is no rate regulation in Ontario on goods moving inside the Province of Ontario.

14361

to

14365

Mr. Sinclair, on behalf of the C.A.A., presents a statement to the Commission dealing with international rate with particular reference to the evidence of Mr. Harold Duffy, of T.S. Woollings & Co.



14388

Consideration of the Submission by the Province of Alberta dealing with Highway Transportation - resumed.

Witness - Mr. Hu Harries.

Witness points out that Alberta is on record that they will not surrender their constitutional rights in connection with the control of intraprovincial trucking nor will they co-operate with other Provinces to set up uniform truck regulations if such uniform truck regulation provides for rate regulation to which the Province of Alberta is opposed in principle.

14389

Alberta accepts the position that rate control and the use of a certificate of convenience and necessity is one way of interjecting ~~the~~ a Government sponsored monopoly into the trucking industry and the Government of Alberta does not see that the benefits that would flow from that would be for the betterment of the shippers in Alberta and the consumer.

14392

The witness says that the Government of Alberta is opposed to what have been termed "give away rates", i.e. rates which are lower than necessary to meet the competition.

14394

The witness is asked whether the Government of Alberta is in favour of some amendment to the customs regulations to permit the movement of freight into bonded warehouses within the province by trucks as opposed to the present situation where they have to be cleared at the border. He replies that he thinks he can say "yes" but that Mr. Frawley probably should explain official position of the province in that regard.

14395

The witness points out the position of the Province of Alberta with regard to the question of the purchase by railways of trucking concerns as follows "The Government of Alberta will not grant licenses to any truck company, the ownership of which has passed to a railway, over and above the number of licenses which such company had at the date of its acquisition by the railway company."

14410

Witness points out that the essential difference that Alberta sees between trucks and railways is that the trucks on their movements are competitive whereas in the case of the railway only part of it is competitive and part of it is still monopolistic in the sense that certain items must be carried by the railway, that is the long haul and the heavy goods must be taken by the railway so there is no competition there.

14421

Submission by the Province of Alberta dealing with C.B.A. Capital Structure, the accounting methods and statistical procedure and the C.P.-C.N. Act.

14423

Alberta submits that a review wholly limited to the existing capital structure of the C.B.A. and not extending to an examination of the operating results of those parts of the C.B.A. system which must be regarded as unremunerative



lines would fall far short of furnishing the Commission with the data necessary to enable it to make effective recommendations with respect to the financial future of the C.N.R.

14424

Alberta endorses the submission by the Province of Manitoba with respect to depreciation accounting and that of the Province of Saskatchewan with respect to maintenance charges.

14427

Alberta submits there is definite need for the prescription of uniform accounts by the B.T.C. and for the continuous supervision of these accounts by the B.T.C. Thinks the Commission should recommend that the B.T.C. be empowered by statute to promulgate a uniform system of accounts for steam railways in Canada, generally along the lines of the accounting classifications prescribed for U.S. railroads by the I.C.C.

14428

Alberta thinks straight line method of depreciation should be adopted because it accurately reflects the annual depreciation if the lifetime of the asset is correctly estimated and it is a method relatively simple to administer. Should, however, the user method be recommended for adoption in Canada Alberta would stress the need of the regulatory authority setting forth definite requirements concerning the information necessary to be supplied in order to determine the basic rate.

14429

Alberta submits that uniformity in the matter of calculating depreciation by railways in respect of the use of their assets, whether by the straight line, user or any other method, should be prescribed by the regulatory body.

14431

Alberta submits that by statutory provisions the B.T.C. should be authorized and directed to:

- (1) make a segregation of rail and non-rail activities of each carrier;
- (2) require the carriers to keep their respective accounts accordingly;
- (3) require the railways to properly apportion between rail and non-rail all charges which are common to rail and non-rail operations;
- (4) require the railways to submit their financial statements in accordance with such segregation.

14432

Dealing with C.N.R.-C.P. Co-operation Alberta supports and endorses the submission of the Province of Nova Scotia.

Refers to position of the provinces before the B.T.C. during the rate hearings where the provinces contended that the onus was upon the railways to satisfy the B.T.C. that every-~~thing~~ possible money saving co-operative agreement between the railways had been carried out or was under active investigation and that until such onus had been satisfied the railways' plea of dire financial need was untenable.



Vol. 91  
14435 Supplementary submission by the Province of Alberta  
dealing with accounting methods and statistical procedures.

Witness - Mr. Kenneth John Morrison.

14440 Submits that the basis of depreciation or provision  
for retirement of assets be uniform in respect of all  
Canadian railways and that the adoption of a uniform  
method of depreciation by all railways should be strictly  
enforced.

14441 Suggests that with an efficient maintenance program  
the use to which the asset is put may not be as important  
as the obsolescence which is accruing and which is usually  
measured by time rather than by use.

Submits that the regulatory body be authorized and  
empowered by statute to determine which of the various types  
of corporate income should be included as rail income and  
so shown in material furnished to the B.T.C. in proceedings  
undertaken for the purpose of determining financial need  
for the fixing of freight rates.

Also submits it should be the duty of the B.T.C. to  
determine that any income excluded from rail income will  
have to be charged with all expenses necessary to the earning  
of such excluded income.

14442 Alberta submits that because of the merging in a common  
treasury of all moneys which the Company has received by  
way of funded debt and capital stock, that in the case of  
fixed charges there must be an allocation and apportionment  
between rail and non-rail and in the case of dividends an  
apportionment. The reason for such an apportionment is  
that the moneys received from the issuance of capital stock  
and other securities have been expended in both rail and  
non-rail activities and therefore the payments in respect of  
fixed charges and dividends must be apportioned between  
these two operations of the company.

14443 Alberta also submits that the basis of such an appor-  
tionment should be the ratio of the total net assets to the  
net fixed assets of rail and the net fixed assets of non-  
rail respectively. Such ratio would be used to determine  
the respective amounts of the fixed charges and dividends  
to be allocated to each activity.

14448 Witness explains that in the case of fixed charges  
there must be an allocation and apportionment since there  
are a number of items shown in the Annual Report which can  
be definitely allocated to rail or to non-rail, as the case  
may be, and in regard to these items they could not be  
apportioned, they are merely allocated. There still remains  
however, the balance of the fixed charges which in the  
opinion of the witness are apportionable as between rail and  
non-rail.

14449 With respect to dividends, the dividends are paid in  
one amount. There are the two ~~xxxxxxx~~ kinds of stock, the



preferred and the common stock, but in so far as the total is concerned it would not be possible to allocate those amounts and therefore in the submission of Alberta it should be done on the basis of apportionment.

14454

Refers to letter written by Mr. Frawley to Mr. Covert saying that Alberta has not made a specialized study and therefore is not able to make any suggestions to the Commission concerning the economies which should be adopted by the C.P.R. and/or the C.P.A. in Alberta.

14457

Witness says that B.Y.C. have made an apportionment in the matter of fixed charges but have not made an apportionment in the matter of dividends.

Witness says that Alberta's statement with regard to apportionment does not involve a change in the present legislation.

Witness says that if there was a rate base and rate of return it would not be necessary to have an apportionment of fixed charges and dividends.

14457

Witness believes any public utility is entitled to earn a fair return on its investment and one of the reasons for this is that otherwise it would not attract capital to its enterprise.

14458

Witness agrees that any rates that were regulated which did not permit the corporation to earn a fair return would be unjust and unreasonable to the corporation.

14473

Witness refers to 35 Judgment, Page 13, where it is stated as follows:-

"Counsel for the respondents have also maintained that if Other Income is not to be considered in fixing a level of freight rates that this Board exercise active control over the establishment of what is rail income and what is Other Income. The foregoing contention points directly to a fundamental difficulty experienced by the Board-- that the Railway Act does not, in its present form, give the Board authority to control the accounting procedure of the railways in the manner advocated by counsel."

14474

Mr. Sinclair points out that the view of the C.P.R. is that Section 136 of the Railway Act coupled with Section 32(2) enables the B.Y.C. to prescribe a uniform classification of accounts.

14484

Witness maintains that the determining of the rate of depreciation is an engineering problem whereas the determining of the amount is a simple mathematical calculation. Witness also says that the general view is that book depreciation is usually in excess of the actual depreciation or sustained depreciation.



14492        Witness is asked by Mr. Angus if it was found that the engineers had given a wrong rate in depreciation so that something was written off in 20 years which in fact lasted 25 years, whether a correction would be made and the witness replies as follows: "No, it is not usual. The depreciation goes through the books and it is accumulated, and equals the value of the assets, but you still have the assets, yet it is fully depreciated. You can make a correction by reducing the depreciation reserve, and credit that amount back to surplus. It means that your earnings for those years were really understated.

14498        Refers to definition of depreciation accounting given  
and        by Mr. Glasco in the 21% Case -  
14499

"Depreciation accounting is a system of accounting which aims to distribute the cost or other basic value of tangible capital assets, less salvage, (if any) over the estimated useful life of the unit (which may be a group of assets) in a systematic and rational manner. It is a process of allocation, not of valuation. Depreciation for the year is the portion of the total charge under such a system that is allocated to the year. Although the allocating may properly take into account occurrences during the year, it is not intended to be a measurement of the effect of all such occurrences."

14507        Witness says he is not subscribing that the present method of straight line does not reflect a proper charge for the use of the assets. While it is not necessarily the most realistic, he says he knows of no better method at the present time.

14509        The witness agrees that he could subscribe to the statement made by Mr. George Ray in the 21% Case that the user method of depreciation is theoretically preferable and practically wiser in dealing with railway depreciation accounting.

14521        Witness says that in the case of public utilities in Alberta the method of determining rate cases is usually on the basis of a rate base and a rate of return on investment.

14526        Mr. Evans, on behalf of the C.P.R., points out that in regard to grain elevators the C.P.R. is paid for the storage of grain under the tariff fixed by the Board of Grain Commissioners.

14544        Submission by the Province of Nova Scotia.

14555        Submission refers to Duncan Report where it is stated as follows:-

"The lower level of rates that prevailed on the Inter-colonial Railway system prior to 1912 is, in our view,



rightly to be interpreted as the fulfilment by successive governments of the policy and pledges that surrounded the railway from its inception, whatever impressions may have been created by the form of its administration."

14556

Also refers to Duncan Commission and changes in framework of the rate structure - "These figures reveal that Intercolonial rates have suffered an estimated cumulative increase of 92 per cent (i.e. their 100 has become 192). The estimated average increase of rates for the rest of Canada is 55 per cent (i.e., their 100 has become 155)."

14564

Refers to cases dealing with the N.F.R.A. 1927 -

C.N.R. v. Nova Scotia et al (1928) B.C.R. 106;  
(1928) 1 D.L.R. 369.

In the matter of the Maritime Freight Rates  
Act (1933) B.C.R. 423; (1933) 4 D.L.R. 764;  
41 C.R.C. 56.

Province of Nova Scotia v. C.N.R. et al (1937)  
B.C.R. 271; (1937) 3 D.L.R. 126.

14566

Refers to Section 7 of the N.F.R.A. and states as follows:-

"By Section 7, the rates provided for in respect of preferred movements are deemed to be statutory rates, not based on any principle of fair return to the railway for services rendered in the carriage of traffic, and it is declared therein that no argument shall accordingly be made nor considered in respect of the reasonableness of such rates with regard to other rates, nor of other rates, having regard to the rates authorized by the Act."

Also refers to Section 8 where it is provided that the B.T.C. shall not approve nor allow any tariffs which may destroy or prejudicially affect such advantages in favour of persons or industries located elsewhere than in the select territory.

14567

Submission points out that the N.F.R.A. is mandatory on the C.N.R. but is permissive on other companies extending into the "select territory" are concerned.

14569

Also refers to Duncan Commission where it is suggested that the Railway Commission does not feel itself empowered to pass under its review, when appeals are made to it, the same wide range of business considerations which railway companies themselves can take into account in forming a judgment as to the extent to which they should develop trade and business.

14570

The Duncan Commission stated: "At present the work of the Railway Commission is circumscribed within two considerations (a) reasonable compensation to the carrying company, and (b) no unfair preference or unjust discrimination as between traders."



14573  
and  
14574

also refers to Duncan Report as to the incidence of horizontal rate increases as follows:

"13. Incidence of Horizontal Rate Increases.

There is one further very important feature of the railway situation, as it affects the Maritimes, which calls for special mention. In one sense it is connected with the problems that we have been discussing but its immediate incidence is not so inter-connected with the general problem as to make it impossible to deal with it separately. Indeed the reaction of the burden which it imposes is so great that, in our view, it should be dealt with as a special problem. We refer to the system under which, during the late war, flat percentage increases (known as 'horizontal increases'), were added to railway rates....."

14577

Submits that N.F.S.A. reduced the cost of sending goods from Nova Scotia outwards but did not reduce the cost of conveying goods into Nova Scotia from places outside the select territory. States that the competitive power in Central Canada of Nova Scotia industries was increased but the competitive power of Central Canadian industries in Nova Scotia was not increased, while the Act did nothing to reduce the cost of living in Nova Scotia in so far as it was influenced by the cost of commodities obtained from Central Canada.

14578

While the N.F.S.A. was designed to improve the position of Maritime industries competing in Central Canada the position of the province in so far as it continued to purchase goods from Central Canada was left unchanged with the result that cost of capital equipment used by the basic Maritime industries remained comparatively unchanged.

14586

Refers to the serious situation which has evolved as a result of loss of traffic to motor trucks and the great increase in competition from motor vehicles and water transport in the Central Provinces. Also suggests it is probable that the Duncan Commission would have recommended measures to protect industry and persons in the Maritime Provinces against the effect of freight rates in Central Canada induced by motor truck and water competition had the competitive developments which had subsequently taken place been foreseeable.

It is undoubted that the reductions effected in the competitive rates have materially reduced the opportunity afforded by the N.F.S.A. to Nova Scotia merchants, traders and manufacturers to get their goods into "the larger market of the whole Canadian people".

14588

Refers to case of Province of Nova Scotia vs. C.N.R. (1937) S.C.R. 271, where the Court held that the N.F.S.A. was right in holding that if rates under such a competitive tariff outside the select territory are found to be such as the N.F.S.A. should not approve nor allow under section 3 of the N.F.S.A. it has authority under the Act only to cancel such rates and has not the authority to adjust or vary rates



on the railway lines in the select territory by allowing a reduction therein proportionate to the reduction effected by the competitive tariff in the outside territory.

The cancellation of such competitive rates established outside the select territory is of no benefit to shippers in the select territory.

14589 Its natural consequence is merely to divert the traffic to the other transport agencies outside the select territory whose competition induced the establishment of the competitive rates.

As a result of the establishment of these competitive rates the M.F.N.A. does not now restore the original purposes of the Intercolonial Railway as interpreted by the freight structure prior to 1912. Such competitive rates frustrate the intent of the recommendation for the 20% reduction as recommended in the Duncan Report.

14595 Refers to argument by Counsel for Maritime Provinces in 21<sup>st</sup> Case that a horizontal increase, if made uniform on the Intercolonial Railway with the rest of Canada on out-ward shipments to the other Provinces would destroy or prejudicially affect the advantages in rates given by the M.F.N.A. to persons and industries in the select territory. It is pointed out that a horizontal increase may retain the percentage-wise relationship but in cents per 100 lbs. or in dollars per ton it would disrupt the rate in relationship to persons or industries in the select territory.

The B.T.C. was asked in the 21<sup>st</sup> Case to adopt the principle of limiting the percentage increase to a flat maximum amount or some other method which would have the effect of lessening a percentage increase or alternatively, restricting the increase to a reduced percentage on long haul traffic exceeding 300 miles or more, from the select territory. The B.T.C. did not accede to this argument but granted the straight increase of 21%.

14598 Submits that the M.F.N.A. should be amended in such manner as to protect persons and industries in the Maritimes from the effects of a straight percentage increase in freight rates.

14604 Urges that consideration be given to the maintenance of a low level of freight rates on raw materials or other goods to be used in the processing or manufacture of products in Nova Scotia, shipped from points outside. If necessary there should be financial assistance from the Dominion Treasury to the railway.

14605 Nova Scotia states it is not in a position to make specific submissions in regard to the capital structure of the C.N.R. until it has had an opportunity of studying the detailed proposals of the C.N.R.



14606

With respect to accounting methods Nova Scotia urges that the N.T.C. prescribe a uniform standard classification of accounts which the railways should be required to follow in preparing their records and financial statements.

Submits that the segregation of expenditures between capital and revenue accounts in any regulated company should be carried out under rules prescribed by the regulatory body

suggests special attention should be given to the following matters:

1. Definite and detailed rules should be laid down as to what constitutes proper charges to the operating accounts under the classification of maintenance.
2. The method of computing depreciation should be determined and the rates prescribed for all classes of assets.
3. Rules for the segregation of accounts should be laid down, clearly setting out what constitutes rail as opposed to non-rail enterprises.
4. Rules for the allocation and apportionment of charges common to both rail and non-rail enterprises should be prescribed by the Board.

14607

Submits that when railways are seeking an increase in freight rates, on the plea of financial need, there is an obligation imposed on them to demonstrate by cogent evidence that they have taken all measures necessary to effect economies in their operations.

14609  
and  
14610

Nova Scotia suggests that the principles and recommendations, as well as statutory directions hereinafter mentioned, should have been adhered to in regard to economies and more remunerative operation by co-operative measures.

First: Nova Scotia refers to the general principles adopted by the I.C.C. with respect to rate making. Those principles are:-

- (a) that it is necessary for railways to co-operate to reduce waste.
- (b) that railways seeking an increase in rates should explore diligently every possible avenue of improving their situation, not only individually but collectively, through co-ordination of services, and
- (c) that the railways are not performing their full duty to the public, especially in a time of national stress, unless they have availed themselves of all the means reasonably at their disposal, including wholehearted co-operation with their competitors to function as economically and effectively as they can.



Second: In addition to the general principles mentioned above the matter of economies by co-operation has received special attention in Canada in the Report of the Duff Commission.

Reference is made to Paragraphs 210 and 211 of the Duff Report.

14612 Third: Refers to C.M.-C.P. Act, 1933, which was passed to implement the recommendations in the Duff Report.

14613 Fourth: Refers to investigation lasting two years and undertaken in March, 1933, by a Committee appointed by the Canadian Senate to review the progress made in effecting co-operative arrangements under the C.M.-C.P. Act. This Committee found that the recommendations of the Duff Commission had "never in fact been applied in a practical sense".

14615 Nova Scotia submits that the C.M.-C.P. Act has not produced the results which were forecast and that some method of co-operation must be devised which can be enforced so as to bring about the desired results.

14624 Mr. Smith, Counsel for the Province of Nova Scotia, states that the basis of their special position in the Maritimes is found in the Duncan Report and the legislation which was passed as a result of that Report, i.e. N.F.S.A.

14629 Mr. Smith submits that by virtue of the competition in Central Canada the advantages which were given by the N.F.S.A. have been frittered away and that the Act is not as effective as it was before such competitive rates were put into effect.

14645 Mr. Smith states that he is against horizontal increases:

14650 Refers to some of the rate increases of the I.C.C.  
Ex. Parte 166.

14655 Ex. Parte 168.

14657 Mr. Smith says that from a reading of these cases it would appear that where the rate increase or percentage is a comparatively small increase there has not been the same provision of exceptions as where there is a higher increase. He contrasts the practice between the U.S. and Canada where in the U.S. there is a tendency to prescribe a large list of exceptions whereas in Canada in the decisions of the two recent rate increases the exceptions are extremely limited.

14671 Ex. Parte 123.

14673 Mr. Smith says he would not go so far as to advocate the abolition of the horizontal increase in its entirety but what he is submitting is that there are certain commodities and certain shippers, and those certain shippers have to be given relief against the effect of a horizontal



increase particularly with respect to long haul traffic and with basic commodities including foodstuffs; and he thinks that has been the endeavour of the I.O.C. to alleviate against the results of the horizontal increase.

14675 Ex. Parte 162

14676 Mr. Smith submits that the tendency of the American decisions and of the American practice is to relieve against the effect of the horizontal increase first on the long haul traffic as against the short haul traffic and secondly, in respect of certain basic commodities, such as iron ore and agricultural products of all kinds.

14683 Mr. Smith suggests the whole question of horizontal increases needs to be thoroughly studied and that there should be a declaration of policy embodied in the Railway Act with respect to horizontal increases.

14685 Mr. Frawley refers to the argument he presented in the 21st Case dealing with the question of horizontal increases.

14725 Witness - Mr. Harold J. Egan - as accounting witness for the Province of Nova Scotia.

14732 Mr. Egan agrees that it is imperative that annual statements should be filed on a uniform basis and with respect to the detail required he states that he thinks he would want to be in a position to know if he was called upon to analyse statements of the C.P.R. and C.N.R. that when he sees in the C.R. accounts the maintenance of something or other, that the same type of principle has been used in allocating to that account the expenditures that were made by each of the railways.

14735 He thinks the first requirement is to get uniform accounting on such segregations that are deemed necessary of the revenue, so that they can be compared. The second necessity is a matter for the B.T.C. to decide as to what revenues shall be regarded as rail and what shall be regarded as non-rail.

14740 Agrees that if you want to compare operating efficiency it is desirable to have operating statistics on a comparable basis.

14743 Witness thinks that uniform accounting with permit of comparison and show whether or not one railroad is spending more money or not on identically the same type of expenditure. He does not think the question of uniform accounting is advanced anywhere with the idea of combining the two railways as a yardstick.

14751 Thinks it is easier for a regulatory body to apply straight line method of depreciation than user method. It lends itself to better policing of the charges being made by the utility to its revenues by way of depreciation.



14752

Mr. Covert asks the witness's views as to whether certain items should be regarded as rail or non-rail, for example Canadian Pacific Express.

14753

Thinks it should all be classified as rail - inland steamships should be classified as rail. Motor trucks and bus companies owned by railways - witness thinks it depends on the use to which the motor trucks and buses are put and the circumstances and where they are used. It may be an operation where there are no railroads at all. It may be a delivery service or a pick-up service to service the railroad or it may be a competitive service with the railroad. If it were ancillary to the railway then Mr. Egan would regard it as a rail operation.

14755

Stockyards - if it is for the purpose of promoting and obtaining freight revenue it should be regarded as rail.

14756

Hotels may or may not be rail operations depending on the circumstances. Grain elevators - rail operation. Consolidated Smelters - non-rail.

14757

Witness says that from the point of view of taking in income or taking losses, he would not take in the investment as part of the investment in rail property even though such enterprises are considered as rail.

14759

The witness would not take into consideration losses on ancillary enterprises if they were so great as to wipe out profits from the rail enterprise.

14766

Supplementary Submission by the Province of British Columbia.

Witness - Mr. J.E. Brown.

This Supplementary Submission deals primarily with the cost of service principle and the criticisms made in regard thereto by the C.P.R. in their submission.

14767

British Columbia does not envisage that the cost of service principle will result in a uniform rate for all commodities nor do they suggest that the railway be required to determine the cost of service on each individual shipment. It is their suggestion that in future cost of service principle should be a guiding principle in the fixing of freight rates so that in due course it becomes the basis upon which the freight rate structure is built.

By "costs" British Columbia means all direct costs and the properly apportioned amount of indirect costs such as property taxes, rents, depreciation, and general overhead but not including interest, profit or income taxes calculated on a system-wide basis.



14768

Thinks railways should be allowed some latitude to meet competition but that any loss sustained by the railway in meeting competition should not be added to the rates paid by other shippers. In the event that the railway company should decide to meet certain competition by applying something less than the normal rates as determined under the cost of service principle, the railway would have to sustain the loss resulting therefrom. This procedure would have the tendency of making the railway management more cautious in the granting of competitive rates.

14769

Submission contends that a horizontal percentage increase in freight rates generally speaking adversely affects long haul traffic in dollars and cents.

14770

Submits that the most equitable way of granting a general increase in rates is by a combination of a percentage increase and a constant amount in dollars and cents after a certain maximum increase has been reached.

14775

Refers to Page 101 of the C.P.R. Submission which takes exception to the price index used in the British Columbia Submission.

14804

Mr. Brown says that to him the surprising thing is that over the years the amount the railways in Canada have had to pay out for work not directly associated with moving a train has fluctuated almost exactly the same way as the amount they paid out for the movement of the train.

14810

and

14811

Mr. Brown answers certain criticisms made by the C.P.R. of the cost of service principle.

14829

Mr. Brown refers to rates set on the value of service basis and says that such a pricing policy may well lead to a regional discrimination not as a result of any intent of the railways, but solely as a consequence of different degrees of bargaining power in different regions. This method of pricing also makes it difficult to arrive at any orderly division of functions as between types of carriers and since it is purely a subjective valuation it is beyond the powers of any third party to pass upon its reasonableness.

14840

Mr. Brown is questioned as to what would happen with rates set on the cost of service principle where lower rates are necessary for depressed areas for developmental conditions, etc., and where it would be necessary in such circumstances to depart from the cost of service principle. Mr. Brown suggests the other alternative is to let rates fall where they will and let the Government by a subsidy to the producers take care of the situation.



- 14844 As a principle the cost of service principle is the allocation to commodities or to groups of commodities of the costs of carrying those commodities so far as they can be ascertained. The witness agrees with this definition but mentions certain reservations as to what is included in the word "cost".
- 14845 The theory of the value of service principle is that each commodity or group of commodities will pay what might be called out-of-pocket costs or average variable costs as a minimum, and each of the commodities or groups of commodities will contribute in varying degrees to the other character of costs, the constant costs, depending on what the traffic will bear.
- 14864 Mr. Evans, on behalf of the C.P.R., suggests that you must take income tax and return on investment into account for rate making purposes.
- 14865 Refers to the 21<sup>st</sup> Judgment at Page 22, where there is a section on the subject of income tax and where reference is made to the argument advanced by Mr. Melston that income tax should not be taken into account as a part of the rate making formula.
- 14868 Dr. Angus asks Mr. Evans if there is a variation in the rate of income tax if such a variation should be reflected at once in a variation of freight rates up or down and Mr. Evans says he thinks he would have to say "yes to that."
- 14935 Accounting Witness for the Province of British Columbia  
Mr. Lionel P. Kent.
- 14937 The principal recommendation in the accounting and financial field which British Columbia desires to stress is the advisability ~~and~~ of the adoption of uniform accounting regulations for Canadian railways.
- 14938 Refers to position taken by C.P.R., namely that B.C. has adequate powers under existing legislation and says while this may be technically correct, there are two fundamental factors bearing thereon that should be given cognizance:
- "Firstly: there are, at the present time, no uniform accounting regulations laid down by the Board of Transport Commissioners which direct the railways to maintain their basis accounting records in any prescribed formula, and in consequence of this omission, the reports received by that Board do not provide a sound basis for comparison of the operating results reported upon and thus the measure of control that is capable of being exercised by the Board is sharply diluted. Secondly: at the present time the Board of Transport Commissioners of Canada has not available a technical staff of sufficient size and strength to enable the Board to keep itself apprized of all the current change in the transportation field as it may affect the finances of the railways and as it may be reflected by their current reports."



14939 refers to C.F.R. Auditors' Report and 1944 Annual  
to Report recommending to Parliament the desirability of the  
14945 adoption of a uniform system of accounting to be applied  
to Canadian railways.

14946 Submission contends the accounting regulations should  
make provision for the detailed classification of all items  
which comprise the assets and liabilities of companies  
engaged in the provision of rail transportation in Canada  
whose activities fall within the orbit of the B.T.C.  
The classification should provide that the complete segregation of assets and liabilities employed in the furnishing  
of rail service from all other assets and liabilities of  
the Company.

The accounting regulations governing the classification  
of assets should provide the framework for the classification  
of all maintenance expenditures as between: (a)  
additions to capital assets, (b) charges to the appropriate  
depreciation reserve and (c) charges to maintenance expense  
under the various sub-classifications.

/specific The provision for depreciation replacement and  
retirement is of such magnitude in the operations of a  
railway that separate recommendations are called for dealing  
with this phase of the subject. It is the recommendation of the Province of British Columbia that the regulations should contain a specific directive to the railway  
companies on this subject.

It is the recommendation of the Province of British  
Columbia that after all assets employed by the Railway  
Companies in the furnishing of railway service are  
classified as depreciable and non-depreciable, that a  
maximum rate of depreciation computed as a percentage of  
cost based on the estimated life (commonly referred to as  
the straight line method of depreciation) for each class  
of depreciable assets be established.

14950 In making this suggestion Mr. Kent says it is not  
their suggestion to write the recommendations as to  
straight line method of depreciation into the Statute.

14952 Mr. Kent suggests that the B.T.C. should be directed  
to formulate rates and that this would be a direction by  
Statute but that any rules should not be laid down by a  
Statute but should be laid down by the B.T.C. under such  
a Statute.

14954 Gives reasons for supporting straight line method of  
depreciation.

14957 In summarizing the position of British Columbia in  
and respect to the segregation of rail and non-rail enter-  
14958 prises conducted by any one Company, it may be said that  
non-rail enterprises can be classified as complementary  
but not ancillary to the provision of railway service.



- 14966 British Columbia recommends that the accurate segregation of expenditures between passenger and freight departments should be very carefully examined with the end in view of establishing accurate costs of service.
- 14967 Mr. Kent comments regarding the statement of Mr. Morrison, on behalf of the Province of Alberta, with respect to allocation and apportionment of fixed charges and apportionment of dividends.
- 14968 Mr. Kent's view is that if you are on a basis of fiscal requirements where a company has both rail and non-rail activities, if you are to apportion one part of the cost, namely the fixed charges, then to his mind you must also apportion the other elements representing the same costs, namely the dividends and the surplus.
- 14969 Mr. Kent thinks that Consolidated Smelters operation could be termed complementary to the rail enterprise.
- 14970 Mr. Kent thinks inland steamships should be regarded in the same category as rail transportation, i.e. as ancillary to the transportation of goods and services.
- 14983 Thinks telegraphs should also be regarded as part and parcel of the rail service. Thinks motor bus and truck companies might be regarded as a separate investment made by the railway company but that different circumstances and different functions would determine whether they should be regarded as rail or non-rail. Thinks express should be regarded as a rail operation. Thinks hotels are complementary but not necessarily a part of a railway operation.
- 14984 Generally speaking thinks hotels would come outside the category of providing necessary rail service. Stockyards and grain elevators probably should be regarded as rail since they usually form an integral part of railway operation.
- 14985 Ocean steamships are not a part of the rail operation necessarily.
- Mr. Kent agrees if revenues were taken into rail earnings that the cost of the relative assets should be included in rail investment for determining a rate base.



15013 Submission of the Canadian Pacific Railway Company.

Witness - Mr. C.E. Jefferson.

15023 8 cents per ton increase on coal became effective October 11th, 1949.

15024 Witness says railways are free to increase the rate on coal from Alberta, but it would be by agreement with the producers and the Dominion Government. The rates are published to expire every year at the end of the coal marketing season, but the Dominion Government have ever since 1933 asked that the rate be extended for another year.

There would be nothing to prevent the railways from either refusing to extend the tariff for another year or to extend the tariff at a higher rate, but witness says they would not want to do it without an understanding with the Government.

15025 For the coal year ending 31st of March, 1949, in which C.P.R. handled 65,371 tons, they received from Government subvention of \$2.50 per ton.

15026 C.P.R. increased rates 25 cents and 8 cents in conformity with the decisions of the Board of Transport Commissioners at which time all coal rates were increased by those amounts.

15030 Refers to letter written by Dominion Coal Board on March 21, 1949, asking that the tariff which expires March 31st, 1949, be extended since provision has been made in the estimates for the next fiscal year to continue subvention assistance on the movement of coal from Alberta to Ontario.

15031 Mr. Angus refers to C.P.R. Submission where it states "that a subsidy should be paid to the mine operators and freight rates should be allowed to find their compensatory level" and says he is told there is nothing to prevent the railways from putting these rates up to a compensatory level except the feeling that they ought to get the permission of the Government first. Mr. Evans agrees.

Mr. Evans says it is not part of C.P.R. Submission that this Commission should recommend that the Government should give that permission but thinks there is tucked into that paragraph a suggestion that the theory under which the subvention is paid, that is to say, a subsidy on transportation, is bad, and that if there is to be a subsidy it should be paid directly to the mine owners. Beyond that C.P.R. do not ask this Commission to make a specific recommendation because it is something that parries lies between the C.P.R. and the Government and does not call for legislation.



Mr. Evans agrees that part of their general position is that instead of subsidizing railways the Government should subsidize the producer, plus the fact that in view of the suggestion that certain rates are not compensatory they want to disclose where they thought rates were not compensatory.

15032

Mr. Evans says C.P.R. thinks that subsidies paid to the railways in respect of transportation are wrong in principle.

Thinks it is wrong to subsidize transportation because a lot of people interpret that as meaning a subsidy paid to the railways whereas it is really a subsidy paid to the producer. Thinks should not cloak that under what appears to be a subsidy to the railway.

15035

Mr. Evans says they think rates should be higher than they are; but he does not think they should ask this Commission to make a recommendation to the Government that they pay a higher subsidy. M.F.R.A. would not object to such a recommendation by this Commission, but, to be consistent, would not ask for it.

Witness says Alberta coal rate of \$8.33 is, in his opinion, not compensatory; it does not pay sufficient revenue to meet out-of-pocket costs.

15036

Witness says cars in which coal shipped from Alberta to Ontario would be returned empty.

15037

Mr. Evans says all subsidies, if they are to be paid in respect of the production and transportation of a commodity, should be in relief of the producer or consumer, as the case may be, and should be paid to him and not to the railways.

Mr. Evans says M.F.R.A. is one of the pieces of legislation wherein subsidies have been paid to the railways and not to the producers, and that is their objection to the M.F.R.A.

Witness says all other subventions on coal made by the Government are paid direct to the operators and not to the railways. The M.F.R.A. is the only one he knows of which is paid to the railways.

Mr. Evans agrees with Commissioner Innis that in the main subsidies have been paid to railways rather than the producers.

15038

The Chairman asks if those are subventions made just on the production, regardless of the transportation.



Witness says there are other subventions paid to the producer of coal by the Dominion Government which are not made on the entire production of the mine, but which are paid on certain quantities from the mine.

Witness understands there is a subvention from the Dominion Government paid to the coal producer on the movement of coal from Alberta mines to Western Ontario for the use of the railways.

15039

Mr. Frawley does not think there is conflict in the Coal Board. They are all transportation subsidies whether they are paid directly or indirectly.

Mr. Frawley says in the case of Nova Scotia coal there is a subsidy there which is paid to the producer for the purpose of getting that coal to Toronto and as in the case of Alberta coal, it is a transportation subsidy. Says there is no disagreement about that.

15041

Commissioner Angus asks witness "Is the fact that the payment is made to the railway in any way linked up with the fact that it arose out of the rates which the railway charges?" Witness replies: "I dare say that is a fact; but we must bear in mind that the B.T.C. took the position that their normal rates were reasonable on coal. But from negotiations which took place between the railways and the Government, the 18 rate with the movement of \$12.50 was agreed to for a temporary period of a year, and it has been continued from year to year ever since.

Witness says present position arises out of a bargain which was made in 1933.

Witness agrees with Mr. Frawley that the B.T.C. said their \$12.70 rate was a reasonable rate.

15046

to  
15048

Referring to international rates witness reads the three pages from C.P.R. Brief commencing on page 101 of Part I of the Company's submission. Says through international rates as established by direct negotiations between U.S. and Canadian alys. at request of shippers or receivers in either country. Through international class rates in effect between Western U.S. and Eastern Canada, whereas no full line of class rates in effect between Western U.S. and Western Canada. Commodities moving in any volume from points in Western Canada to U.S. are covered by through commodity rates.

15051

and  
15052

Refers to Exhibit 151 - Statement listing the tariffs which publish through commodity rates from points in Prairies to points in the United States.



15053

Witness emphasizes that the Orders of the I.C.C., Order 71774 of 1st December, 1948, and 77905 of 18th August, 1949, contained a paragraph reading:

"And whereas it is deemed by the Board to be expedient in the public interest that the continuity of joint through rates from points in the United States to points in Canada and vice versa and the maintenance of the parity of port relationships should be preserved."

15054

Witness says the practice followed with respect to increasing international rates at the same time and to the same extent as in the United States also applies in the case of general reductions in the United States. As an example, in 1922 there was a general reduction in rates in the U.S., and at the same time there was a similar reduction in international rates. In other words, if the international rates had not been reduced at that time, it would have been unfair to the Canadian shippers to have had the rates reduced within the States and not from Canada to the United States.

15059

Witness points out that if the through international rates were not increased to the same extent as within the U.S., the U.S. railroads would find means by which the through rates could be so increased, and retain all of the increase for themselves.

Refers to Ex. Parte 103, reported at 178 I.C.C. Page 539.

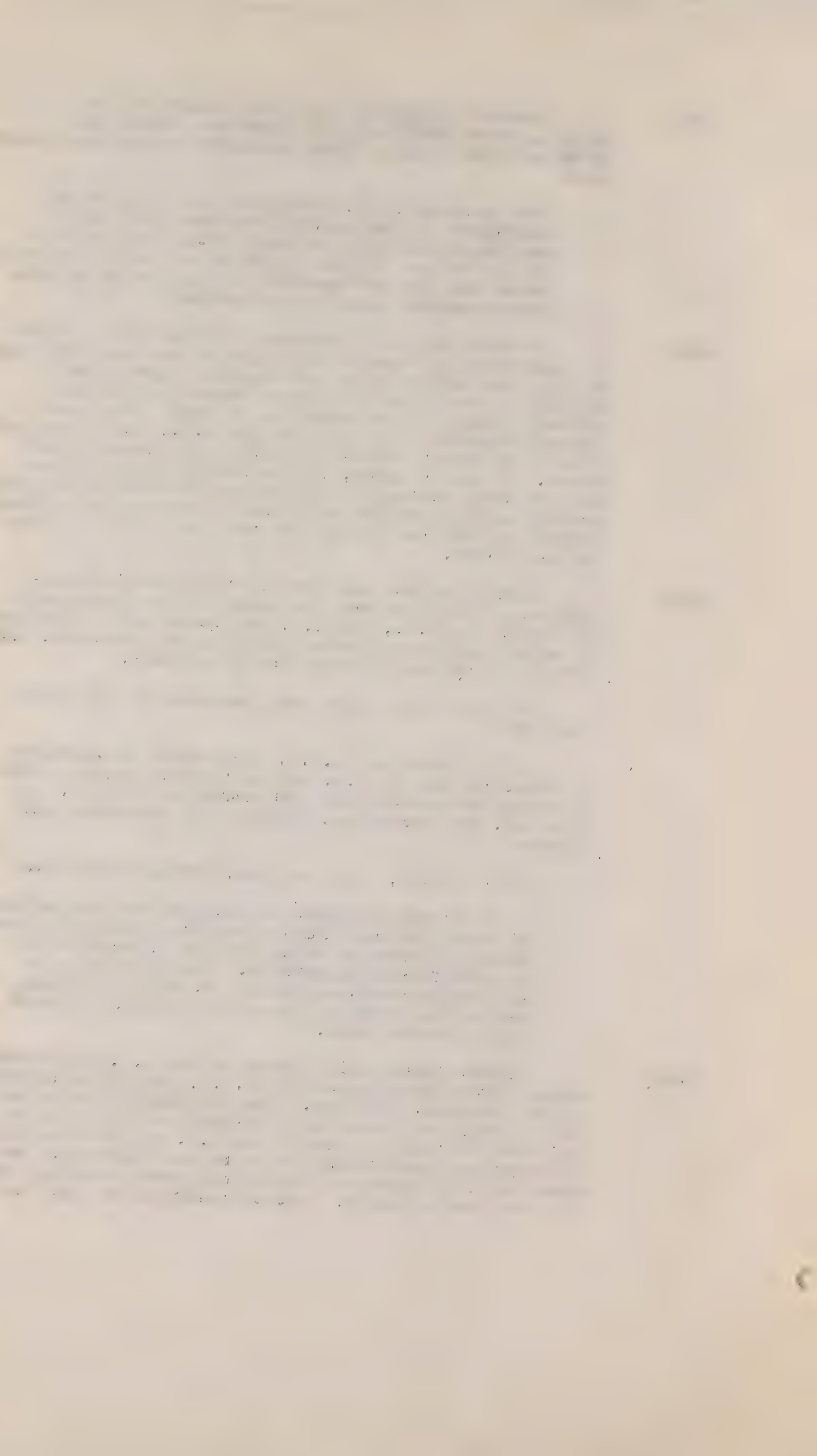
At that time the I.C.C. authorized an increase in rates within the U.S. and on international traffic by specified amounts per 100 pounds or per car. At Page 589, the decision contains the following provision:

"Joint rates, the rate from Foreign Countries"

It is not intended to increase the proportion of joint through rates to or from points in foreign countries accruing for the transportation in such foreign countries. The proportion of such rates accruing within the United States, may be increased to the extent herein approved for domestic rates."

15060

Witness says action taken by the U.S. railroads under above authority of the I.C.C. was not acceptable to the Canadian railways. The Canadian railways objected to their shippers being obliged to pay the same increase in rates as within the U.S. and the Canadian railways not receive any share of the increase. Not receiving any share of the increase was no saving to the Canadian shippers. The shippers had to pay the



increased rates but the Canadian railways would not get any share of it.

Mr. Davis asks witness if he would care to make any comment as to the advisability of subsidizing those shippers who are exporting to the U.S. and are being penalized as compared with other Canadian shippers.

Witness is afraid if you subsidized the Canadian shipper in a case of that kind and it would be known to the railroads in the U.S., they would retaliate and cancel through rates.

15064      Witness does not think it matters if the rate from Canada to the U.S. is increased to the same extent as within the U.S. when rates within points in the U.S. are increased the same amount.

15069      Refers to general Order No. 536, p.67, dated  
to      April 15, 1935 of B.T.C. on application to make in-  
15073      creases in international freight rates between  
points in Canada and points in the United States in  
like manner, effective at the same time as the rates  
were being increased within the U.S.

15073      Witness says B.T.C. did authorize the same  
increase in the international rates as took place in  
United States by its General Order No. 616 of March  
5th, 1942.

15081      General Order No. 616 relates to the whole  
question of international rates as well as import and  
export rates.

Witness points out that the increase which was  
granted by General Order Number 616 to international  
rates, was made effective with the approval of the  
War-time Prices and Trade Board, whose approval was  
necessary at that time. The only exception was with  
respect to item 3 of the Order which read as follows:

"That no advances in import and export rates  
between Canadian points and the Canadian Atlantic  
or Pacific ports and furthermore rates on traffic  
between points in Canada and Canadian points destined  
to or from American land, are authorized pending  
hearing and further Order of the Board."

15082      Refers to further Judgment of the B.T.C. as  
contained in J.O.M. & N. Volume 32, pages 123-137, in  
which B.T.C. confirmed their previous decisions.



15083

The wartime Prices and Trade Board, after receiving the judgment of the B.T.C. still refused to give their consent to increasing the rates referred to in Item 3.

15084  
and  
15085

Witness says when a similar application came before the B.T.C. and the W.P.T.B. in 1946 following the decision of the I.C.C. in Ex parts 148 and 162, both the B.T.C. and the W.P.T.B. approved increasing international rates as well as import and export related rates through Canadian ports at the same time and to the same extent as rates were increased in the U.S.

15085

Witness says that while the Prices Board did not give their approval to that increase in respect of that particular traffic in 1942, they did in 1946.

15086

Witness says that with the concurrence of the United States railroads the Canadian railroads are permitted to publish the same rates on lumber and forest products from Vancouver, as an example, as from Seattle to Tacoma and Portland to Boston.

15096

Witness says they find the American lines are co-operative in making rates from Canada to the United States so long as we do not suggest a basis of rates lower than within the U.S. If Canadian railways were going to suggest a rate on pulpwood from Woodstock, New Brunswick, to Sumford, Maine, lower than from Holton, Maine, then they would not approve it.

Witness says they have no more prohibitive difficulty in making joint inter-line rates in Canada, where there is necessity for joint interline rates, than they would on international rates.

Witness says there are instances where there is extreme difficulty in making international rates with American railroads.

15097

Witness says by refusing to agree to a reasonable rate the U.S. railroads put up a tariff against Canadian railroads.

15097  
and  
15098

Witness says joint through rate is advantageous. If the haul is short in the U.S. the combination of locals would still be higher than the joint through rate. The railway would be free to reduce their local but witness says there would not be much advantage in reducing the local and letting the railroad across the boundary have their full local. The haul would have to be extremely short, but even then if you interfered with through rates in that way, it would just go on and on and on and you would not preserve a proper relationship of rates as between Canada and the U.S. where the haul became longer.



Witness says they have to keep all gateways on the same basis.

15100  
to  
15102

Refers to Part I of C.P.R. Submission, Page 104, dealing with proportional rates.

15106

Witness says it has been suggested to this Commission that proportional rates be established between points in Western Canada and the international boundary gateways. Witness explains what a proportional rate is, as follows: -

"A proportional rate is a rate limited in its application to through traffic which has already paid or will subsequently pay a further transportation charge; in other words, a proportional rate is not a rate in and of itself; it is a part of a proportion of a through rate."

15101

Witness is asked if he has any comment to make with respect to applying the standard all-class rates or the distributing rates from the United States - Canadian border junctions in Western Canada on international traffic as outlined at Pages 105 and 106 of C.P.R. Submission.

Witness thinks what is outlined at pages referred to covers the situation but refers particularly to Page 105 as follows:

"There is no justification for applying distributing rates to or from United States - Canadian border junctions in Western Canada on international traffic. The distributing rates had their origin in the early development of Western Canada and are special rates to assist in the distribution of goods from wholesale centres in Western Canada to the retail trade in the outlying districts on which the railways had already received an inward haul.

There is no valid reason why the same distributing basis should be granted on merchandise entering Canada from the United States. In many cases such merchandise is in direct competition with similar goods produced at points in Canada."

15102

Refers to Page 106 of the C.P.R. Submission, which refers to Pages 87 and 88 of the appendix showing a comparison of the standard all-class rates applicable in Western Canada to the U.S. Western Trunk line on 1, 2, 3, and 4 class rates for representative distances from 100 to 1,000 miles.



15110

to

15111

Witness describes a pilation of Crow's Nest  
rates.

15113

Witness draws the Commission's attention to the fact that the mileage of railway operated by the C.P.R. in Western Canada in 1897 was only 3,716 miles; while to-day it is 11,243 miles, or more than three times the mileage of 1897.

In addition, the mileage operated by the C.P.R. in Eastern Canada is 11,467 miles; and that of the Northern Alberta railways is 928 miles.

15115

Witness is asked his views as to whether the growth in the grain traffic had been overstimulated by the Crow's Nest rates. Witness says in his opinion grain and grain products in Western Canada would have grown; they would have become very much larger, even though the rates had not been reduced 3 cents per 100 pounds in 1897.

Witness does not think grain is being grown where it ought not to be grown because of cheap rates.

Witness refers to Pages 151 to 153 of C.P.R. Submission where it states as follows:

"The Railway Act requires that freight rates be just and reasonable and this means not only that they be just and reasonable to shippers as a whole, but also to all groups of shippers as well as to the railways".

Replying to a question by the Chairman as to the meaning of the phrase "just and reasonable", Mr. Carson, on behalf of the C.P.R., says some of the authorities have said that it must be just and reasonable to the railways as well as just and reasonable to the shippers.

15115

and

15116

Mr. Evans does not think there ever has been any precise definition. Thinks the definition of the reasonableness of rates depends on various things which have been put forward to the C.P.R. It is a matter of judgment for the C.P.R. after hearing comparisons and many other things, of rates in different parts of the country.

15116

The Chairman says so far the question appears to have been confined to cases where some complaint of discrimination had been made, but not in the abstract. Asks if the question has ever been discussed and decided whether rates are, in themselves, just and reasonable, regardless of discrimination against localities. Chairman replies from the railways' point of view they would say that a rate must provide a certain compensation for their cost, while from the shippers point of view, is there any standard which has been applied.

Mr. Evans refers to one case in connection with the Alaska railways and another case with respect to the



scale of rates on and off the Alberta railways. believes they raised comparisons as to whether the rates were compensatory. Does not think the C.T.C. has ever precisely defined the term.

15117

Replying to a question by Commissioner Innes if it is something which is always decided in a negative sense, Mr. Evans says he would think so.

15117

to

15119

Witness continues reading of C.T.C. submission as follows:

"The vesting of jurisdiction in the Board in connection with grain and flour is necessary in order that rates may be just and reasonable rates for other kinds of traffic. This is so because if the grain rates are deficient the rates on the other traffic must be forced to a higher level than otherwise would be justified.

To remove from the jurisdiction of the Board a large segment of a rate structure which the Board is charged with controlling is clearly wrong in principle and detrimental to sound rate making and to the efficient operation of a railway undertaking. This has been recognized in the United States where a statutory restriction in the general level of rates for moving Government traffic was repealed in 1945. The so-called 'Land Grant Rates' were deleted from the United States Transportation Act by Public Law 256 - 79th Congress - Chapter 273 - 1st Session, H.R. 694.

Canadian Pacific submits that a recommendation should be made that Section 325(5) of the Railway Act be amended by striking out the following proviso:

'....Provided that, notwithstanding anything in this subsection contained, rates on grain and flour shall, on and from the twenty-seventh day of June, one thousand nine hundred and twenty-five, be governed by the provisions of the agreement made pursuant to chapter five of the Statutes of Canada 1897, but such rates shall apply to all such traffic moving from all points on all lines of railway west of Fort William to Fort William or Fort Arthur over all lines now or hereafter constructed by any company subject to the jurisdiction of Parliament.'

and that Section 325(6) of the Railway Act should be repealed.



The effect of such amendments would be to place the rates for the movement of grain and grain products wholly within the jurisdiction of the Board of Transport Commissioners."

15119

It is the view of the witness that on grain and grain products, the rates should be subject to the jurisdiction of the B.T.C. If they are not subject to the jurisdiction of the B.T.C. it is not fair to the shippers of other freight.

15119

and

15120

Commissioner Evans asks Mr. Carson if these two changes were made in the Act as recommended would the effect of that be that the B.T.C. would have to consider whether rates on grain should have some special consideration because of the history and of the precedent of 1897 and of what followed, or would he expect that they would automatically be treated just as other rates are treated, on the ground that to do otherwise would be unfair to other shippers?

Mr. Carson says he is told by his colleagues that there is no doubt whatever that they would be subject to the jurisdiction of the B.T.C. and that the rates would be fixed regardless of this background and that no one could successfully argue before the B.T.C. that because of this history and some special consideration should be given to those rates.

15132

Mr. Carson refers to sub-section 5, of section 325, of the Railway Act. The power of the B.T.C. would appear to be unlimited under that clause.

15133

Mr. Carson would strike out the proviso to 5 and repeal 6 entirely.

Mr. Evans says 6 has no value; it only came there as a result of the case in the Supreme Court, the finding of the Supreme Court.

With reference to sub-section 6 Mr. Evans says the Supreme Court held that the Agreement applied to stations in existence at the time the Agreement was made and did not apply to other stations and the discrimination which arose by applying the rates to those stations and excluding the rates to the stations that did not exist were excused, as the sub-section puts it, on the ground that it was a statutory discrimination and that is the purpose of sub-section 6, to say that "you shall not excuse that form of discrimination based on the agreement".

15134

Mr. Evans says that with the removal of the proviso in sub-section 5 and the removal of sub-section 6, you would have left merely the first part of sub-section 5, which says "that the board shall not be bound by any agreement of this kind".



Says effect of all previous agreements on freight rates would disappear and it would be left entirely to the Board.

Mr. MacPherson for Ask. says that is view generally accepted by provinces and that is why so much opposition was offered to railways.

15134  
to  
15135

Mr. Carson reads from C.P.R. Brief page 155 where it explains what led to decision in Supreme Court.

15136

The witness says that in his opinion all freight rates should be under jurisdiction of N.T.C. It is only way fair treatment can be granted to all shippers for all kinds of traffic.

Says repeal of statutory grain rates and placing them within jurisdiction of N.T.C. would in principle be the same as the action taken by Congress in U.S. in repealing the so-called "Land Grant Rates" and permitting traffic to move at rates within the jurisdiction of the I.C.C.

15138

Mr. Sinclair for C.P.R. thinks that everybody who has complained in West about freight rates and their level must be in some respect complaining that the level is too high and overlooking the fact that it is as high and overlooking the fact that it is as high as it is because of the low level of grain rates.

In answer to the Chairman Mr. Covert says he thinks it safe to say there has been no shipper of specific goods who has complained of any preference given as against him to the shippers of grain by this statute.

15138E  
to  
15138C

Commissioner Angus suggests that if the railways has not made Crow's West agreement and not received any consideration, that the revenue that they have got to get from their traffic today might be larger and therefore what the rates other than grain may be called on to make up might be just as much as these special grain rates.

Mr. Evans replies that when it comes down to a deficiency, whether you take in your rate base and take a rate of return on it or whether you take your requirements it would make no difference today. Problem goes back further. The condition might have been different throughout earlier years. Does not know what happened then. Says perhaps shareholders would have got a higher return from C.P.R. at the interval between the time the rates went into effect and when the rates began going up during the first war, but as to now does not think he can argue that the deficiency would in any way be changed by the initial granting of so much cash.



Commissioner Angus says what he had in mind was supposing a particular railway had borrowed what it received as a grant and therefore had that much cash to carry it through.

Mr. Evans replies that if you are on a rate based on the return on investment, the cash which was taken in at the time of the agreement, as a gratuity if you like, or as a consideration of the agreement, would go into property of railway company presumably and would then be reflected in its investment which, for purposes of the railway return, would produce a return and if you are on a requirement basis you might or might not reflect it against the deficiency you establish today, whether your fixed charges would have been bigger or whether they had been affected at all by the failure to get that additional \$5,000,000.

He says the amount or quantum of the consideration that might have been received in 1897 is irrelevant today.

151380  
do  
151380

In reply to Commissioner Innis, Mr. Evans says he would certainly be against making B.T.C. any kind of planning board, because he does not think sufficient organization exists in a tribunal of that kind to do a planning job. But thinks if there is some consideration remaining outstanding with reference to Crow's Nest Pass Agreement that ought to be compensated for, it is a matter for argument, which he is prepared to face when necessary.

15139  
do  
15138

Witness reads C.T.R. submission re Historical Outline of Crow's Nest Pass rates.

15150

Witness states grain and flour were the commodities included in the Agreement of 1897.

Witness states grain, flour, oatmeal and millstuffs were the commodities included in grain tariff publishing the official reduction in grain rates effect Sept. 1st, 1899.

15161

Witness says reason for difference between rates shown prior to April 1948 and those shown subsequent to Nov. 8, 1949, is that the B.T.C. refuses to apply either the 2 1/2% increase or the 8% interim increase to the commodity mileage rates on grain and grain products in Prairie territory, whereas these rates were applied to the rates in Ontario-Quebec territory.

Mr. Evans says the reason given by the B.T.C. was that the spread between Crow's Nest rates and domestic rates, in their opinion, was too great if they were going to increase the domestic rate, and it was a holding down of the domestic rate for the operation.



Witness says the commodity clearance rates in Ontario and Quebec are low, with few exceptions, lower than the corresponding rates in the Yukon Territory.

19102

Witness says that prior to April 1943 the rates in Yukon Territory were always higher, but today the situation is just reversed.



15163

Mr. Covert states that at page 14128 of the transcript the witness Mr. A. J. Young refers to figure of \$75,555,000 as cost to C.N.R. in increased rates during 1948. He says Mr. Young has revised his statement and said figure should read \$55,000,000. Pages 14137 and 14139 also refer to same question and where figure \$75,555,000 appears it should also read \$55,000,000.

15164

Witness agrees that generally 8 1/2% increased went into effect Oct. 11th, 1949, but in case of rates in Ontario-Quebec territory it did not go into effect until Nov. 8th, 1949.

Witness says that commodity mileage rates on grain and grain products as shown in Exhibit 161 in prairie territory prior to April, 1949, and effective May. 8th, 1949, are the same. In Ontario-Quebec territory effective Nov. 8th, 1949, rates are much higher than prior to April 1948. This is not due only to 8 1/2% and 6% increases, but also because rates in Ontario-Quebec, having been competitive rates, have received a separate increase effective July 2nd, 1949.

15166

Witness points out Ex. 162 shows Crow's Nest rates are lower than prairie commodity mileage rates for equal distances by from 42.9 to 54.3 per cent.

15167

Witness says that so-called constructive distance of 130 miles between Fort William and Winnipeg has no bearing on either Crow's Nest rate or the commodity mileage rates.

Says constructive distance between Fort William and Winnipeg of 130 miles applies only to class rates and commodity rates related to the class rates between Fort William and points in Western Canada, and they are also used in making rates between Eastern and Western Canada.

15170

Witness says if Crow's Nest rates did not exist, carriage of grain would not be affected by constructive mileage.

Says that if Crow's Nest rates were increased they would not be increased to the basis of the local mileage rates or commodity mileage rates, nor would you use the 130 miles constructive distance between Winnipeg and Fort William. Would determine what rate should be on the grain from Prairie points to Fort William without regard to either of those factors.



15172  
to  
15174

In reply to question by Commissioner Angus, Mr. Evans for C.P.R. explains that under the Consolidated Railway Act of 1879 Parliament might not reduce the general level of rates to give a railway less than 1% on its investment. In the Statute of 1881 incorporating the C.P.R. the figure was reduced to 10%. In the revision of the Railway Act in 1903 the section relating to the 1% was repealed. Mr. Evans says it must be assumed that permissible level of C.P.R. remained at 10% although in fact it was never settled.

15189

In reply to Chairman witness states he has not the figures showing quantity of movements of grain from Regina to Fort William and from Whately to Duluth, but that there is heavy movement of grain from mid-western U.S. points to Duluth.

15186

Witness says application of Crow's Nest Act was suspended in 1916. In August 1916 rate became 24¢ and reached maximum of 32 1/2¢ in September 1920, then reduced in Jan. 1921 and Dec. 1921 in general rate reduction cases. On July 6th, 1922, the Crow's Nest rate of 20¢ was restored by Act of Parliament and has remained 20¢ ever since.

15193

Witness is asked if Panama Canal has any effect on American grain rates to Duluth. Replies that he does not know of any.

Does not admit Panama Canal partially effective in keeping down rates from Alberta to Fort William.

15195

Witness admits Panama Canal might have some effect on ocean rates across Atlantic as compared with the ocean rates from Vancouver to United Kingdom, but does not think it would have affected rates on West Coast or St. Lawrence.

Says fact Duluth West of Fort William should tend to give American farmer some advantage over Canadian farmer in shipping grain to Great Lakes on account of shorter rail haul.

15200  
to  
15203

Witness says in making comparisons of American and Canadian rates difference between American and Canadian dollars not taken into account. American grain rates in Canada apply on shipments of wheat whether it is forwarded from Duluth by water down Great Lakes or by rail to points in U.S. or Atlantic seaboard for export, just the same as rates to Fort William apply on shipments delivered to boats at Fort William or moved east by rail for domestic consumption or for export. There is no difference in application of these rates they are both for domestic and furtherance movements.



In case of rates from Alberta to Pacific Coast, the railways have rates on export grain from Alberta to Vancouver made in relation to grain's best rates to Fort William. Had commodity mileage rates on grain in prairie provinces and B.C. for domestic movement on two scales - prairie scale and Pacific scale. Rates between prairies and coast used to be on Pacific scale, but with removal of minimum differential in July, 1949, now have prairie scale of rates for local movements throughout prairies and B.C.

Does not think you can charge a lower rate for domestic movements of grain to Vancouver than in B.C. or to B.C. area you apply within prairies. Only difference is that in prairies grain's best rate to Fort William operates as a maximum in directly intermediate points.

19409 Witness says grain rates to Seattle are the same whether for domestic consumption or export.

19411 Mr. Bradley objects to Ex. 143 on ground it comes close to taking out a case from the best rates and compensatory.

19417 Witness says there is very little movement of grain from Sask. to Pacific coast for export.

19433 Witness states that in view of stability of fluctuations of prices in Canada and B.C., it is difficult to understand how higher freight rates on grain would be ruinous to Canadian farmer. Can see no reason for inability to pay.

19436 If railways were obtaining all the revenue they needed to meet all their requirements and the grain rates were increased, the rates on other traffic would be reduced, but since the railways are not getting the revenue they need, the increase in grain rates should be made so other railways would not have to pay the whole burden.

19438 Witness says that we know railways are not getting all the revenue they need. Every time freight rates are increased they have to be increased more because grain rates remain stationary. If grain rates were increased others and receivers of other traffic, not only in the west but throughout Canada, would not have to pay as high an increase as they would if grain rates not increased.

Witness' argument against increasing rates on other traffic more and lowering grain rates is they are in that other shippers are required to pay heavier burden than they should and that you get rates too high and for competitive reasons it affects the movement of other traffic.



13243  
13244  
13245

Witness says Prairie provinces do not make up all the deficiency.

Witness says if rates on wheat were not increased in West the other traffic should be increased more in the West than in other sections of the country because they are not paying their full share of the increase.

Says he is not aware of any reason why grain ship- pers in Prairie provinces would pay more in transpor- tation charges today than they paid in 1896. In fact rates today are three cents below what they were in 1896.

13246

In reply to argument by Commissioner Innes that they do not pay but they pay it on other things, witness admits this is true, but that the cost also pays more.

13247  
13248  
13249

Mr. Evans for C.P.R. says that he thinks it gets lost in fact that the development that agreement has been so much broader than agreement envisaged that burdens are now imposed on other people and on railways to a far greater degree than was ever intended. Does not think anyone could have foreseen in 1897 the develop- ment of the railways in the West and the fact that all railways and all points on all railways would permanently be asked to bear burden of this contract; or that B.T.C. should subsequently effect other rates in accordance with that contract, that is, to have its effect on domestic grain rates, to have its effect on export rates to the Pacific and also to have added to the tariff affected by the same agreement other commodities which are so closely related to the original commodities and which have newly developed and are a big factor.

Mr. Evans says it is not on the basis of improvi- dence or the changing of the dollar value that C.P.R. considers agreement now a burden, and says C.P.R. has not made any particular point of changing of dollar value. C.P.R. has pointed out that contract no longer is merely burden on themselves, but on all railways, and there comes a time when shareholders rebel and say they won't stand any more money in an undertaking of that kind.

Says question is, are you going to recognise now that that is true. Says distinction between agreement and statute is that Parliament were faced with a decision of Supreme Court in which chaotic result of the application of the agreement in its own terms was apparent. The only remedy was for Parliament to do something about it. Does not think action by Parli- ament at that time was once and for all a solution of problem. Thinks new situation arising and should have new solution.



15244  
to  
15245

Mr. Evans thinks original agreement was hard bargain on C.P.R., because the shareholders of the C.P.R. in those days actually had to forego some measure of earnings which he suggests were out of all proportion to the \$3,400,000 paid to the company as a subsidy.

Mr. Evans does not doubt that rates charge between 1903 and 1917 were compensatory and it was a compensatory rate below level of Crow's Nest rate. This was under Manitoba Agreement which was partial realization of Crow's Nest Agreement.

Agrees with Chairman that for competitive reasons they had to change the rates, but thinks competitive rates must have provided a measure of compensation, but says it does not follow that there was not a burden imposed on the company and its shareholders by reducing those rates at that time. It was a burden, but not one the company could not bear.

15246

Mr. Evans says that when Manitoba Agreement made they were looking around for some way by which Canadian Northern could give Manitoba something for something Canadian Northern got in the agreement. They found that and in making the agreement they forced C.P.R. to take something less. Does not follow that agreement should have been made, at least on that basis, if the Crow's Nest level of rates had not been previously adopted by Crow's Nest Pass Agreement.

Mr. Evans admits to Chairman that C.P.R. did make agreement to meet a certain competition, which must have given certain measure of compensation, and which nevertheless was lower than the authorized Crow's Nest rates.

15247

Mr. Evans says Manitoba agreed rates were apparently thought by the Board to be too low in 1917 and after the war because they said the agreement was not binding and Supreme Court upheld decision.

Mr. Evans thinks the Crow's Nest legislation after the first great war was most unwise as a matter of legislation. Legislation was done by policy which by Dr. Angus that any inflation of prices, if it is big enough, would throw out any price fixing legislation and make it unfair.

15248

Witness will not say what he thinks rate should be, but does think it should be substantially higher. Does not think higher rate would effect the economy of Western Canada. Thinks Western farmer could afford to pay higher rate on wheat to Port Arthur.

15249

Witness says there is no other commodity which has rates below 1896, and prices are much higher than in 1896.



Thinks that as Canada is very prominently an exporting country it would not be unreasonable to have a lower rate on export traffic than domestic movements, but thinks there is a misunderstanding about these grain rates to Fort William, because there is no difference there.

Agrees 75% of grain to Fort William would go outside Canada.

Says small percentage of U.S. wheat would go outside U.S. in comparison to Canada.

Grain rate problem is much more a national one for Canada than U.S.

15247

Witness states that if Section 325 were repealed and rates were determined by B.T.C. he would expect them to be fixed by the ceiling as just and reasonable rates. Does not think they would be established on a basis of so-called competitive rates because in the way railway makes competitive rates they are not rates in competition with some other mode of transportation. They would be normal rates.

15255

Says Crow's Nest rates on grain and grain products are making a smaller contribution to railway revenue in proportion to the service performed than is obtained from any other traffic.

Witness says revenue per ton-mile on grain and grain products in 1916 was 0.47 cents and in 1946 0.55 cents, an increase of 0.08 or 17% while on all other traffic the revenue per ton-mile in 1916 was 0.93 cents and 1946 1.31, an increase of 0.38 or 41%.

15261

Witness is strongly of opinion that any rates today which are below 1898 level are too low and not in proper relation to rates on other commodities which are on a much higher basis.

Says as far as he knows no one ever attacked western grain rates on the basis that the rates published pursuant to Crow's Nest agreement were too high. That in itself should be sufficient to prove that the rates are too low, having regard to the level of wages and cost of materials today compared to fifty years ago.

15261

to

15262

C.C.C. would be as follows:-

"In fairness and equity, these rates should be regulated in the same way and by the same tribunal as rates on other traffic.

The level of grain rates in Western Canada is less than half that for comparable movements of grain in the Western United States.

Under present conditions, the 'Crow's Nest'



level of grain rates is not compensatory.

If, as a matter of national policy, the grain handling industry in Western Canada should at any time require to be subsidised, the subsidy should be paid directly to the industry by the Government of Canada out of general tax monies."

15261

Witness says he considers a depression period condition under which subsidy might be granted.

In a depression period he would want rates to remain at same level and have difficulty made up by the Government. There might have a period when some areas might have partial crop, and they might need some assistance, and farmer with good crop would not.

15262

to

15263

Says railway does not take position that once rate established it should remain fixed forever. Witness says railways have always given consideration to any business situation in which the traffic is, if they feel they should give some measure of relief.

Witness feels that railways in better position than B.T.C. to determine what measure of emergency relief necessary because they are more familiar with conditions all over the country.

If opinion of railways and that of regions concerned are not coincident witness does not think action would have to be registered through Parliament. If such a situation arose shippers could always appeal to B.T.C. to have their rates reviewed.

15264

C.P.R. submits as follows:-

"The price of grain in Western Canada has more than doubled since the present 'Crow's Nest' basis of rail freight rates was established. It is sound business that these rates be permitted to find their proper level in accordance with changed conditions.

The Crow's Nest rates are a pure historical survival. They are not related either to the cost of service nor to the value of service. Changes which have occurred since they were introduced have made them totally obsolete and their effect upon the railways and upon the rates charged on other traffic makes it dangerous to retain them."

15265

Witness says C.P.R. would not expect nor would they ask for rates as high as obtain in Western U.S. for same or similar distances.

They are, however, anxious at the same time, that in fairness to all, grain and receivers of all traffic, one class of traffic in one section of the country



should not recklessly expect to receive preferred treatment at expense of other classes of traffic.

In making the case page 2 of the provisions of the railway and transportation rates on grain and grain products is under Canada, railway board in order that the C.P.R. may have jurisdiction over all freight rates in Canada and to achieve more equitable distribution of transportation burden.

Before fixing rates on grain and grain products in western Canada C.P.R. would expect a most thorough and detailed study by the S.T.C.

15272

Witness says rate on grain which would replace Brown's nest rate would be a special commodity rate.

Witness says that would be fixing rate of that type which was proposed by a study by S.T.C. in order to determine their level.

Says if railways were free themselves to change the rate they would. As they are not they ask that the rate be changed and that S.T.C. say what rate should be.

Agrees with Dr. Angus this means fixing the class rates rather than the special commodity rates but C.P.R. would not want S.T.C. to set all their rates.

Says in view of the circumstances of Brown's nest rates, if the rate proposed, instead of railway setting the rate they would let board say it and that everybody would be satisfied.

15273

Mr. Evans says railway fully expects that a matter of this importance will require special study by S.T.C. and they are fully prepared to face it.

15275

Mr. Frawley for Alberta thinks if legislation created as asked by C.P.R. railway themselves would begin by fixing the rate and that those who did not like the new rate could then appeal to the board.

15277

Commissioner Angus says his understanding is that if grain statute repealed it would not be something that could be changed before the board, they would have to treat this rate the same as other rates. Mr. Evans agrees. Mr. Angus thinks that for S.T.C. to make a thorough study of these rates, probably to give effect to certain principles, would be more useful as a separate item that Mr. Angus agrees.

15277

15278

In reply to Dr. Angus' question as to what these principles would be, Mr. Evans replies that to begin with the value of service principle requires that they should pay at least out-of-pocket costs and some additional compensation.



Mr. Evans says N.T.C. and those interested would first have to find out what out-of-pocket costs were. Thinks N.T.C. would want benefits of N.T.C. study. There are certain other aspects they would want to consider. For instance the illustration just mentioned by Mr. Jefferson as to whether in view of certain circumstances there should not be an export rate lower than a domestic rate of their in western Canada than in eastern Canada. There are many other illustrations. There are many things that should be studied and railways and rates prepared that study should be made.

Does not think this would bring the N.T.C. closer to some sort of economic planning, but depends how far they go with the study.

Mr. Evans says N.T.C. is quite prepared, whenever he does not recommend it, to have study made before new rates set.

Says there is no legislation authorizing such a study.

Chairman says an Act of Parliament would be required.

Mr. Evans replies that most usual practices in developing these commodity rates today is for industry to consult with railways before they have any rates at all.

Chairman undertakes position is that the railway railways that if they undertake are (fixed), some these rates are taken into the same method as other rates and railways could fix them, but that they will not fix them in this case, or rather, they would ask the N.T.C. before they fix the rates to have a case law study made to see what the rates ought to be and they have material on hand which they are prepared to make available to the Board to effect this study. Mr. Evans thinks so.

Mr. Evans after consultation with Mr. Jefferson makes a suggestion that if commodity rates are granted railway will not fix new rates until they have been approved by Board and N.T.C. will make their valuations and papers in this connection available to the Board.

Commissioner Lewis asks if provision could be made to receive the decisions of the Board or would there be an appeal immediately to Parliament or the Supreme Court.



Mr. Evans replies that they might appeal. He is merely stating that C.P.R. would be agreeable to it - cannot speak for the provinces. Only reason railway would appeal would be in case of some legal principle being ascertained and they would want to have that straightened out.

15284  
to  
15285

Mr. Carson for C.P.R. submits following paragraph to replace paragraph 82 in the outlined submissions of C.P.R.:—

"Canadian Pacific submits that a recommendation should be made that section 351 of the Railway Act and section 80 of the Post Office Act be amended by adding at the end of each section the words: 'save that the terms and conditions as to compensation to be paid to the Company shall be such as may be determined from time to time by the Board of Transport Commissioners for Canada'".

15286

Mr. Carson says purpose of these two amendments are simply to left over to the Board the jurisdiction as to compensation.

Mr. Hart for C.N.R. says C.N.R. agrees to this and there is statement along same lines in their brief.

15287

Witness says there was an increase made in the rates for the carriage of mail effective Mar. 1st, 1921, by P.O. 379.

15291

Witness says no increase in mail rates since June, 1922. Says present application by railways on Nov. 29th, 1949, was considered by Postmaster General, and after protracted correspondence and discussions the Postmaster General wrote to B.T.C. requesting assistance in endeavouring to reach some common ground with railways.

15293

Mr. Carson reads letter of Sept. 9, 1929, from Railway Association to Postmaster General requesting increase in mail rates.

15294

Witness says he understands no application made for increase in mail rates between 1929 and 1949.

Rates today are the same as in 1922.

15295

to

15296

Witness reads letter from Postmaster General to B.T.C. dated Aug. 15, 1949, requesting assistance of B.T.C. in an endeavour to reach common ground with railways.

15297

Mr. Carson replies to Chairman that Postmaster General merely asked B.T.C. for assistance in an endeavour to reach common ground. There was not statute or arrangement under which it was being done.



Witness agrees that Postmaster General, in the final result, had the say in fixing these rates.

15298      Witness reads letter from Postmaster General to B.T.C. in reply to inquiry by railroads as to whether Board's investigation would be made under Order in Council stating that this was not the intention.

15299      Reads letter from Postmaster General to Railway Association dated Jan. 16th, 1930 in reply to their letter of Jan. 4th asking what progress has been made in application for 5% increase in mail rates.

15301      With regard to present status of application B.T.C. advises that Postmaster General's department are not waiting for an official report from any of its officers. B.T.C. also states that its officers have made a verbal report to Postmaster General's Department and that no further report from them is to be made unless and until they again receive a request from Postmaster General's Department for additional information or advice.

Witness adds that only evening before he saw Deputy Postmaster General. He said that he was going to address a letter to B.T.C. today insisting upon a formal report from the Board's experts.

15302      Witness gives principal reasons for proposed amendment to transfer jurisdiction over mail rates to B.T.C. as follows:-

"First, as I have stated, our experience in the past has been that there are almost interminable delays in obtaining consideration and disposal of our applications.

Secondly, as the Postmaster General himself has stated in his letters, quoted on page 193 of Part I of our submission, his Department is not experienced in dealing with the factors governing railway rates. It is evident that he must, in any event, call for our outside assistance.

In the third place, it would seem desirable that the Board of Transport Commissioners should have jurisdiction over the rates charged for the carriage of mail, just as it has jurisdiction over the freight rates and other rates, so that there should be a proper balance maintained. This would avoid an increase in the burden upon the shippers and consignees of freight."

15310      Witness says at present that railway is helpless over mail rates. Cannot get decision from anyone.

Says that in U.S. the I.C.C. has jurisdiction over rates charged for carriage of mail. This came about as a result of an act of Congress dated July 28, 1916.



15522

Witness says ton-mile earnings are higher for Eastern region than for the Prairie and Pacific regions.

15523

Witness says in Eastern Canada, the increases applied to the grain and grain products not only for domestic movements, but also, at the same time, as the international rates were increased, because the at that time grain rates were increased on the coast in 1949.

With respect to all traffic except grain and grain products, the larger increase in the East as compared to the West could be attributed to the larger amount of international and overland traffic in Eastern Canada than in Western Canada, where there were two increases in 1949, one in January, 1949, and the other one, witness thinks, was effective September, 1949.

15524

Witness says the increase in competitive rates in the West would also be a factor, because they were increased 15 per cent, effective the 15th of September, 1948; and for the first eight and one-half months of 1949 there would be a larger increase on those movements in the West than in the East.

15525

Witness refers to Part II of the C.R. Submission, pages 33435 dealing with international movements, comparing U.S. practice with Canadian practice.

15526

Witness says it has been stated before this Commission that the B.T.C. have granted percentage increases for freight rates without maximums, but as in the U.S., the I.C.C. have prescribed certain increases which may be made.

This Commission has been asked to recommend that B.T.C. follow the practice of the I.C.C.

15527

Witness says B.T.C. as well as I.C.C. have, on occasions, made exceptions by way of granting flat increases in cents per hundred pounds, or per ton, on certain commodities.

Witness refers to Ex Parte 123 in 1936 where there were relatively few exceptions made by the I.C.C. and in the case of a vast majority of commodities, flat increases were applied.

15527

In regard to the practice followed in U.S. with respect to these exceptions, witness says there is a very different situation in the U.S. from that existing in Canada because there are a number of separate railway companies on whose lines are located, for example, producing areas. These producing areas are competing in a common market. It is therefore in the interests of the railways tributary to the producing areas to carry as much traffic to the common market as can be obtained. In the result there is a tendency on the part of the railways to attempt to bring about exceptions



to flat horizontal percentage increases in order to promote their own traffic in competition with railways serving competing producing areas.

15336

Witness says in the vast majority of cases exceptions were originated with the railways themselves and the exceptions are set out in the applications. It does not follow that the I.C.C. grants the exceptions in the terms in which they are applied for.

15342

Witness says in the U.S. they have certain lines of railways which carry traffic to the market endeavouring to lower their rates and the I.C.C. does not permit that because there are other areas producing the same products on other lines of railway and if allowed to lower rates it would put those other areas and those other railways in an unfair position.

15343

Witness says C.P.R. has made analysis of the decisions of the I.C.C., 44 parts 123, 152, 160 and 168, to see how far these exceptions originated with the railways. They analysed the instances, first the instances where the maximum applied for by the railways was granted by the I.C.C.; secondly, the instances where the maximum applied for by the railways and the I.C.C. increased the maximum; thirdly, instances where maximums were applied for by the railways and the I.C.C. reduced the maximums and in the fourth instance where the railways applied for flat percentage increases without maximum and the I.C.C. set a maximum.

15345

Witness says as there are only really two railway systems in Canada, the other railways being relatively small, there is not the same incentive for the railways in Canada to make these exceptions as there is in the U.S.

In the opinion of the witness the exceptions in the U.S. cannot be said to have arisen because of the objection to horizontal increases as such but principally to railway and market competition on between different producing areas served by different railways interested in common markets.

15346

Witness draws attention of the Commission to the view of the B.T.C. in the 21% Case, Page 65 of the Judgment where it says "strong exception was taken by the respondents to a straight percentage increase in freight rate".

15347

Witness thinks arguments in 21% Case were general in character and went beyond the commodities specifically mentioned.



Mr. Evans says this was apparent from Board's judgment. They set up a table to say what the differentials in existence were and said these were comparative rate relationships.

15348

Commissioner Evans asks if that contrast between a general proposition and specific cases has any counterpart in American decisions. Mr. Evans says he does not think so.

15351

Mr. Fraser says there is no specific direction to the Board to examine the matter of horizontal increases in the judgment of the Privy Council on appeal from 21% judgment.

The Chairman says there is certainly nothing preventing it and there is a rather strong intimation they would have to.

Mr. Frawley says in the submission of the Province of Alberta this Commission is perfectly free and authorized to consider into the matter and make recommendations.

15352

Mr. Carson says further light is thrown on the subject by judgment in 6% interim increases where it says at page 11 under the caption "horizontal increases" -

"As in the hearings prior to the decision in the 21 per cent case so in the hearing of this application, the respondents have vigorously contended against the principle of horizontal increases. At this time the Board" --

that is last September --

"is not in a position to give a final determination in respect to this contention because this matter is already the subject of a direction to this Board set out in order in council P.C. 1467 of April 7, 1948, in which order in council the Board was directed to make a thorough investigation of the rates structure" --

then it goes on to describe that order in council. Evidently the Board is interpreting P.C. 1467 as requiring it to do that very thing.

The Chairman states that in any case B.C. has full power today to decide whether increases shall be horizontal or otherwise, and nothing in this order in council interferes with that decision.

15354

Witness says we have had cases during the years where there has been a flat increase or a percentage increase with a maximum in Canada, but not for the same reason as in the United States.



Says principal objection taken to horizontal increases is the fact that increases were from the provinces, and they were largely of a general character.

15356

Witness gives opinion that the only way to maintain competitive rate relationships is by horizontal or flat percentage increases.

15357

Witness states that in the case of a maximum increase, the limitation on the amount of increase gives the more distant producer an actual advantage, always assuming the price of his commodity has increased by more than the increase in freight rates.

Says that it has sometimes been put that any increase, other than a percentage increase, deprives a producing area closer to the market of the benefit of its geographic location.

Admits this assumed market is always the same, no matter what the price. Does not think volume would be reduced if price went up. Says there would be just the same amount of goods consumed, unless something else substituted and if price of substituted commodity goes up as well, there is no difference.

15358

Witness thinks prices all over the country have come up pretty much in like manner, but has made no study of them.

Admits that if general increase in wholesale prices did not take place there might be a disturbance.

15359

It is view of witness that when increasing freight rates to meet revenue needs or requirements of the railways, the only fair way of applying such increase is to treat all commodities as commodities alike, otherwise burden unfairly distributed.

15360

Witness thinks from a producing point of view, Ontario and Quebec industries would not be affected in the same way as industries elsewhere, if the market for the goods was in Ontario and Quebec. On the other hand if the producer outside Ontario and Quebec could market his goods in Ontario and Quebec before the increase - if the prices have increased by the same percentage, or more than by the freight rates, then witness thinks he could certainly reach Ontario and Quebec markets.

15361

Thinks that in the main, as freight rates have gone up such a small amount percentage wise, there could be a considerable drop in commodity prices without affecting freight rates.



15361  
to  
15362

Mr. Evans suggests that if railway rates could have been set up more properly, and were closely related to the increase in prices, would have been a very different situation in that respect.

15362

Mr. Evans replies to Commissioner Angus that the speed with which these changes in the rate level occur correspond to changes in the market situation.

Mr. Evans says he knows of no way of expediting procedure before B.T.C., but thinks it is probably an administrative problem of the Board. Thinks a good deal could be done if B.T.C. narrows the issue down a bit and steps up the procedure.

15363  
to  
15364

Mr. Evans does not think problem of maxima is one of really serious importance. Says bugbear of horizontal increases is overdone. In U.S. shippers and railways can use experience in past re horizontal increases, but railways cannot take the initiative where there is blanket challenge of horizontal increases. Does not think any railway, no matter how well disposed, could be diplomatic enough to approach right industries first without bringing down a deluge from all the other industries. Once make a move in one direction to satisfy one group, and another group, now silent, will protest.

Mr. Frawley for Alberta took issue with Mr. Evans on ground consumers disproportionately charged.

Mr. Barry for N.B. agrees with Mr. Frawley.

15377

Chairman points out no case submitted to Commission where consumers appeared asking something be done or not done.

15378

Mr. Covert suggests that position of consumer different in different localities and that is why they are not represented as a class.

Mr. Frawley says one of reasons Ontario and Quebec have not appeared before Commission is that there consumer is satisfied. In Alberta consumer definitely dissatisfied.

15379  
to  
15379

Mr. Evans asks Mr. Frawley if he is putting case against horizontal increase from consumers standpoint and not from producer's standpoint, because if latter approached from consumer's standpoint you have market relationships involved. Does not think increasing rates by horizontal increases involves the consumer. Mr. Frawley takes issue.



13386-7

Chairman says if railways lower a rate, say, in favour of some locality bringing their goods into the Calgary market, that action might be set aside if it discriminates against the shippers in another locality on that same line. That is the Canadian rule. Mr. Evans agrees.

Chairman goes on to say that if favour granted by C.P.R. militates against a locality on the C.N.R., that is no ground for interference. Witness agrees.

Chairman refers to proposition brought forward by Mr. Matheson for Transportation Commission of Maritime Board of Trade that in order to allow the Intercolonial railway to grant lower rates to certain localities he would disassociate it from the rest of the system so that any lower rates granted to compete not with its own line but with other lines should, therefore, be valid.

13387

13388

Witness re equalization of rates says disparity in rates between eastern and western Canada greatly exaggerated. Result with before C.P.R. in 1914, 1917 etc., and differences steadily being reduced. Some commodity mileage scales lower in West than in East such as sand and gravel, some higher than in West. Has no objection to equalization of rates between East and West provided revenue position of carriers maintained. Not yet in position to submit proposed plan of equalization of class rates and commodity mileage scales.

13389

13405

Witness reads C.P.R. submission re equalization.

13407

13408

Witness does not agree with Alberta submission to take rate of taper in the West because it is more favourable, to take schedule "A" and "B" because they are lower than eastern distributing class rates, to take lowest of East and West Commodity mileage scales and then adjust all rates upwards to provide for the deficiencies in revenue resulting from equalization process. Says improper to always adopt lowest. If this done railways would find it hard to increase all rates by necessary amounts and it is unduly complicated.

13409

Says making effective uniform class rate scale within U.S. still appears a long way off. Remains to be seen whether it ever will become reality.

13410

Witness says railways establish joint interline rates whenever there is need for them. See Railway Act Section 336(1) and Section 337 (1).



15416 -               Witness reads from C.P.R. submission re Interline  
15417 rates.

15418               C.P.R. submits that Sir Henry Drayton explained  
15419 as large amount of practically duplication of railways.

15420               In answer to Commissioner Innis witness says this  
condition still appertains but would not want to say  
in what amount.

15421               Witness thinks that if there were only one  
railway there would not be same problem of inter-  
change of traffic.

15422               Witness contends that with unified system rates  
15423 would be generally as reasonably low as at various  
15424 points. Might be instances where rates lower because  
of more direct route, but does not think it would  
affect large volume of traffic.

                  Says leaving lines as they are today there are  
sufficient interchange points to take care of traffic.

15425               Statement by Mr. Evans re "reasonable circuitry".

15426               Witness explains that where small volume of l.o.l.  
15427 traffic to be interchanged it would be routed from  
15428 one station to another and would not send whole car  
through. It is a matter of expense and whether lots  
in car going in same direction or not over other  
railway.

15429               Witness states that in U.S. when they make mileage  
scales of rates they make them in the first instance  
for two-line hauls rather than one-line hauls because  
they have so many multiple hauls, whereas in Canada  
we have more single-line hauls, and we have multiple  
line hauls we charge higher than the single line rates.  
Thinks this is benefit Canada has as compared with U.S.

15430               Commissioner Innis asks if this permits of market  
15431 competition on the scale which is characteristic of  
15432 U.S. Witness answers that he does not think Canada  
at any disadvantage in this respect as there are few  
important points in Canada not served by both railways.

15433               Witness says large percentage of pulpwood mills  
are located at competitive points. Certain exceptions,  
i.e. Mackinac Island and other points. Mackinac Island for ex-  
ample would draw all its wood, no doubt, as far as  
possible from points on C.N.R. because that is railway  
which serves it.



C.P.R. makes joint rates for pulpwood moving off  
their lines to mills served exclusively by B.T.C. -  
I.P.R. reciprocates.

15440                    Prior approval of rate changes by B.T.C. -  
do                    C.P.R. submits that railways should be free to set  
15444                    rates just as they are today and then B.T.C. hear  
                      complaints.

15446                    C.P.R. submits that no useful purpose would be  
                      served by having B.T.C. prescribe rates whereby B.T.C.  
                      would prescribe fixed minimum rates below which rail-  
                      ways would not be permitted to go.

15459                    C.P.R. is prepared to have its Freight Traffic  
                      and Accounting Officers confer with the technical  
                      staff of the B.T.C. to review general principles to  
                      be used in calculating out-of-pocket costs. Submits  
                      this would accomplish all that could be done and is  
                      not necessary that there be any legislation to bring  
                      this about.

15460                    Witness maintains there have never been any  
                      complaints of consequence from competitors who felt  
                      they were prejudiced by a sudden reduction in rates.

15461                    Witness is very much opposed to any amendment to  
                      railway act which would authorize the board to award  
                      reparation.

15463                    Witness contends that if on application of shipper  
                      railway forced to reduce rate and make reparations  
                      then likewise if someone complained to B.T.C. that  
                      a rate was too low and board ordered railway to increase  
                      it, they should be able to collect higher charges  
                      back over a period.

                      Witness maintains that if freight moved and trans-  
                      action closed it would, except in a case of error in  
                      the rate, be neither reasonable nor proper to expect  
                      railway to make refunds or go to some shipper and  
                      collect further charges.

                      C.P.R. submits reparations are in essence legalized  
                      rebates. In U.S. shippers can use right of reparation  
                      in a way never intended to be exercised.

15465                    Mr. Drawley refers to case where U.S. government  
                      now suing American railroads for a lot of goods they  
                      shipped to Alaska Highway.

15466                    Mr. Evans points out that even where railway  
                      involved in a through haul they have never submitted  
                      to jurisdiction of I.C.C. to award reparations in  
                      respect of the haul within Canada.



15469

Witness says experience in both Canada and U.S., before regulation of freight rates became effective, and when rebates could be made, was that rebates were obtained almost exclusively by large shippers whose volume of traffic enabled them to exert pressure on the railways.

Submits that remedy of reparations is a remedy far too drastic to be warranted by showing of those who propose it.

*Vol 77*  
15471

Witness deals with C.P.R. submission re differences between conditions obtaining in Canada and in U.S. re reparations.

15474  
to  
15475

Witness objects to reparations being made as from date of application to date of ruling of R.T.C. (might be three to six months). If railway applied for an increase and rate was suspended railway would lose revenue for six months till finally approved. In fairness should work both ways, but public want it to work only one way. However, says a few witnesses have appeared who agreed it should work both ways.

15475  
to  
15477

Witness gives views of C.P.R. re Long Haul - short haul rates.

15477  
to  
15478

Witness says there are now about ten instances where rate to Calgary is greater than rate to Vancouver plus back-haul, but in these cases railway does not charge higher rate in practice.

15482  
to  
15496

Witness gives C.P.R.'s answers to submissions of Alberta re long haul - short haul discrimination.

15497

Mr. Shepard for Manitoba objects to statement made by Mr. Jefferson to effect Manitoba not supporting Alberta on question of long haul - short haul. States Manitoba is supporting Alberta.

The witness describes differences between provisions Interstate Commerce Act and provisions of Canadian Act on question of long haul - short haul discrimination.

15496

Witness is convinced that the adoption of the United States practice would work great hardship on the Canadian railways and at the same time would not afford any substantial additional relief to shipping public.



- 15501           Witness knows of no instance where B.T.C. ever disallowed a transcontinental competitive rate.
- 15502           Witness points out that as it now stands the transcontinental competitive rate structure has been investigated by the B.T.C. on its merits and it has been established to the satisfaction of the B.T.C. that the conditions are such as to justify not extending the transcontinental competitive rate to the intermediate points. Says as Board has so found, reason advanced by Alberta for changing legislation is not a sound one.
- 15503           Further points out that in addition to the transcontinental rates, the railways are continually finding it necessary to publish rates to meet the competition of motor trucks and domestic water lines. If, in order to meet suggestion of Alberta, U.S. rule were established, it would be necessary to apply it as well to the publication of these additional competitive rates in all parts of Canada.
- Further the situation as between C.N. and C.P. would be seriously disturbed inasmuch as one or other of the lines would be unable to meet the short line mileage of the other between competitive points without first having to apply to the B.T.C. for relief.
- 15504           Witness is thoroughly convinced as a practical traffic officer that the extent of discrimination at intermediate points is greatly exaggerated and in few cases where it may exist present machinery of the Act is adequate protection.
- 15505           Witness is convinced that industry in general in Canada would not be in favour of depriving the railways of the right to meet promptly unregulated competition without the necessity of complying with regulations which first result in breaking down their rates from end to intermediate points.
- 15507           Says in no instance has the Montreal and Toronto rate been applied as a maximum to intermediate points Winnipeg and West.
- 15509           Witness gives interpretation of C.P.R. as to Alberta's submission on industrial location and the rate structure.
- 15510           C.P.R. submits that it is a generally recognized principle that rates on raw materials should be lower than rates on manufactured products. This is fundamental to the value of service principle in ratemaking.
- would not go so far as to say rates on raw material must be lower, but they usually are.



15514

Witness explains dressed meats are really fresh meats and packing house products are dressed meats.

15515

to

15517

Witness is of opinion that to establish a rate relationship based merely on the loss of weight in the processing would result in an entirely new system of rate making. Because rates are made today on value-of-service principle, which reflects both differences in cost of transportation and to some extent the value given to the article by the manufacturing process.

15520

Says might be that the competition which the railway and its kind would bring about a lowering of the rate on the manufactured product.

15524

Witness does not believe that the I.C.C. has ever succeeded in working out and giving effect to any relationship based on the loss of weight in the manufacturing process, nor that any established relationship has been accepted as of general application in the U.S.

Witness admits that the longer the haul the lower per-mile earnings you can have and still have a rate that is compensatory but points out in case of livestock the railways reduced the rates to assist the producers back in 1921, which makes earnings very low.

15530

States matter of the relationship between the rates on livestock and rates on fresh meats and packing house products has been exhaustively dealt with in so-called *Business Case*, reported in 10 J.B.A. & C. 336.

Witness' general conclusion re Alberta's proposal re rate relationships is that segregation is wholly impracticable and that in any case U.T.C. has jurisdiction and will deal adequately with it in any given case.

15533

Witness says railway has always considered rates on livestock very low but has never felt they found opportune moment to increase them.

15534

Says livestock rates have been increased only twice since 1921, by 21% and 8%.

Says the general increase is always applied to livestock rates.

15538

Witness refers to submission of *Business Case* re Canadian Pacific Line North of Lake Superior.



15542

C.P.R. submits that there is no evidence that the burden of overcoming the disadvantages provided by the operation of the railway through so-called "wilderness" north of Lake Superior is any greater than if an alternate route through U.S. south of Great Lakes had been used.

15543

It is opinion of the witness that those who were responsible for national policy were possessed of great vision and courage and realized that the building of C.P.R. wholly within Canada over a long term of years was in best interest of Canada.

15544

Witnesses there has been a large industrial development on the line between Sudbury and Port Huron and it has brought millions of dollars of U.S. capital to Canada.

15545

Does not consider this line better in Canada or anyone else. In fact it is definitely meant to Canada and C.P.R.

15547

Believes if this line had not been constructed north of Lake Superior territory would indeed be a "wilderness".

15548

Witness, however, development on this line has not been such as to show advantages of railway as the point where unnecessary to and for increase in rates.

15549

Mr. Evans asked statement representative before I.C.C. on how a person who has been started reparation went about collecting it.

15549

On question of interstate rates Mr. Evans explains C.P.R. makes no distinction between a railway owned railway or a railway leased under a 999 year lease.

15550

Mr. Hart for U.S.R. this also true of U.S.R.

Mr. Evans says this does not apply to Quebec Central, that is a leased line and there have been two-line rates for special reasons - there are outside interests involved in that company.

15557

Mr. Hart for Canadian Automotive Transportation Association produces tariff schedule of I.C.C. covering points situated in Canada and U.S. under which I.C.C. regulates rates of American and Canadian trucking companies travelling between Canadian points and U.S.

Says as American I.C.C. has any jurisdiction over a vehicle or a motorist who beyond their territorial limitations, but this is tariff under which they regulate rates, and may effectively regulate them because the carrier has got to come back to the U.S. after delivering load and if it is discovered he is not adhering to tariff set up, the I.C.C. then penalizes him in some way after he returns home.



Canadian carriers have rights to travel in U.S. and they have to go to U.S. if they are travelling internationally and if they do not comply with certain conditions they are controlled by being denied right to run into U.S., so they do behave under this tariff.

15569

Witness says his use of word "unregulated" means unregulated by the B.T.C.

Thinks motor carriers in B.C. may be regulated so far as common carriers are concerned but does not know that they are regulated insofar as contract or private carriers are concerned.

15570

Witness cannot say to what extent commercial trucking of petroleum products in that traffic amounts, but agrees it is not large.

15571

Witness points out that the two agreed charges on salt in bulk (Nos. 23 and 40) were not justified to salt truck competition; they were justified in that mainly water competition because there is no competition of water lines in the carriage of bulk traffic.

Agreed charges on petroleum products made to meet competition from trucks owned by shipper.

15579

Witness believes that the tonnage carried by contract carriers would be greater than the common carrier, because the contract carrier usually carries a full truck.

15580

Witness is familiar with changes some of railroads in U.S. have in mind with respect to curtailing their pick-up and delivery service. This service grew very fast during the depression period. The cost of the P. & D service has become such a burden in recent years that some carriers are withdrawing from the service or charging for it.

C.P.R. has made no application to nor has it abandoned its P & D service.

15581

Knows of no studies in his railroad that would indicate P & D service too expensive to carry on.

15582

Says C.P.R. have adopted Railway Association statistics as I.C.C. statistics using C.N.R. figures. These figures of C.N.R. and C.P.R. would be reasonably comparable.



15584

Witness thinks it would be found volume of traffic by railroad under fifty miles very small and between fifty and 100 miles not very large.

15585

Witness is aware that in some instances in the U.S. truck trailers are placed on flat cars and carried to their destination and then trailer is taken off the flat car for delivery at that point or in surrounding area. But not know how extensive this practice.

15586

Says railways have been asked to carry truck trailers on flat cars in Canada but on investigation found car-mile revenue so low as to be not compensatory and they would not handle the traffic.

15619

Witness thinks 40 cents per hundred pounds would be a reasonable rate on grain from western to east William, which is exactly double what rate is now, but says farmer getting more than twice the price for his wheat than he got at time of Crow's Nest Agreement.

15621

Witness says he is not setting the rate on grain from western to east of the Lakes, that is matter for S.T.C. He is merely saying he would not think 40 cents unreasonable.

15623

Says American railways stop at border of three prairie provinces, but would not say this is to preserve east-west movement. Says C.P.R. interchanges a lot of north and south bound traffic with railways with which they connect at the border. Does not suppose they would encourage any more.



- 15624           Witness shows that the rates for the domestic movements on grain and grain products from and to points in the United States are higher than in Western Canada.
- 15625           Witness states total wheat and wheat flour exported from Canada in 1947-48 was 61.1 per cent of the wheat crop as compared with 35.1 per cent of the crop in the U.S. Wheat export from the U.S. nearly as great as the total crop in the Prairies, but expressed in wheat and wheat flour exports it exceeded by quite a substantial amount the wheat crop of western Canada.
- 15630           Witness agrees export of wheat more important to Canada than to the United States percentagewise.
- 15631           Witness states that the domestic rates and export rates from Seattle, North Dakota, to Seattle and Portland are the same. In the movement of grain to Duluth from Montana, North Dakota and Minnesota the rates to Duluth on both domestic and export apply to all grain moved beyond Duluth whether to destinations in the United States or in a foreign country.
- 15633           Witness states that there are export rates on grain to Atlantic seacoast ports that are lower than the domestic rates.
- 15634           Mr. Evans for C.P.R. returning to Canadian - U.S. grain production statistics assumes that the export volume from the Prairies is substantially all the total Canadian export.
- 15636           Witness states that grain rates to Fort William are both export and domestic rates, and apply whether the grain or the flour goes to points in Eastern Canada or Eastern United States or foreign countries.
- 15637           Mr. Macpherson states that at the moment the United States are subsidizing exports to the extent of 50¢ a bushel to feed Europe.
- 15639           Mr. Jefferson states that in 1946 the Great Northern Railway had 101,754 loaded cars of grain compared with 139,221 loaded by the C.P.R. western lines. Therefore a substantial movement of grain.
- Mr. Macpherson queries as to the fact that most of the wheat exported by U.S. is soft wheat - Mr. Jefferson maintains this of no account as the freight rates are just the same no matter what kind of wheat it is or the grade of wheat.
- 15645           Mr. Macpherson states that an agreed charge is a special rate that you provide in the movement of a commodity where you get a guarantee and an assurance of moving all the traffic i.e. petroleum products out of Calgary.



15643 Mr. MacPherson further states that the charge out of Calgary under the agreed charge is 12 cents, out of Ontario 9 cents, out of Quebec 10 cents, and out of Regina 26 cents.

15644 Justification for 12, 9 and 10 cents is the fact that you get either all or a substantial quantity of the traffic, according to Mr. MacPherson.

Witness states that railways always willing to make an agreed charge out of Regina, Winnipeg, Brandon or Saskatoon to meet competition, but cannot do so if no one will make one with them.

15645 Mr. MacPherson mentions there are only two distributors of petroleum products in Regina. Mr. Jefferson agrees that the railways have a complete monopoly in respect of grain that is sent out of the three provinces.

Mr. MacPherson suggests that when you have a monopoly on all the product that there is every reasonable reason for a special rate.

15649 Mr. Jefferson interprets Mr. MacPherson's reference to monopoly on petroleum products only in so far as agreed charges are concerned - no monopoly unless movement covered by the agreed charge.

15651 Mr. MacPherson finds that there isn't a monopoly on hauling of petroleum products therefore find a spread of 26 cents and 9 cents. Suggests that re grain exports have a complete monopoly.

Mr. MacPherson states in the one case so far as petroleum products concerned, price of 9 cents because of competition. There is no competition in connection with wheat, but if principle right, price low because of monopoly, and simply a case of agreement confirmed by Parliament.

Chairman questions whether price is low because of a monopoly. Tendency of a monopoly is the other way.

15652 Mr. MacPherson agrees tendency the other way, however Parliament and the railway entered into an agreement in 1895. This agreement akin to the agreed charge on petroleum products. Thus, so far as grain ion concerned, while there is no competition re transport out of the country, parliament has decreed that the same principle would apply as applies in respect of petroleum products where there is competition.

15653 Chairman fails to see analogy between Crow's Nest agreement and the agreement which is made with the shipper of a product who might ship by other means, but obtains a reduced rate because he agrees to ship all by rail.



Mr. MacPherson argues that this does not apply as far as the person who pays the freight is concerned. In the one case they entered into these agreements because there was competition; in the other case they entered into agreements for good consideration, and in 1925 in the amendments to the Railway Act, parliament has told them that the same principle must apply.

15654

The Chairman makes the point that these agreed charges provided for under the Act are limited in time - witness adds they can be changed from time to time - whereas the Chairman points out the agreement made in 1897 was forever.

Mr. Evans for C.P.R. states that the present discussion is on the basis that these agreed charges are real monopoly rates. The very fact that there is competition indicates that they are not monopoly rates.

15657

Witness doesn't think the restoration of the Crow's Nest rates in 1922 interfered with the C.P.R. expansion program on branch lines in the Prairies.

15660

MacPherson argues that notwithstanding the re-imposition of the Crow's Nest rates, the company went on to build new lines.

15669

Discussing the prices of wheat, witness argues that an increase of freight rates does not necessarily come out of the farmer - depending on world conditions.

15675

Mr. Jefferson verifies stand of C.P.R. re subsidies to the grain growing industry. The Company rejects any subsidy to the Company itself, but is prepared that the industry should be subsidized.

15676

and

15677

Asked by Mr. MacPherson whether payment of this subsidy would be individually to 250,000 grain farmers, Mr. Jefferson replied that it was a matter of policy but if a subsidy was paid to the farmer it could be paid to him on what he markets just as well as it could be paid to the railroad. Mr. Jefferson's personal view is that if you pay a subsidy to the Railway Company it means a lot of work to the Railway Company to collect the subsidy and keep its books, etc.

15679

Mr. Jefferson answers Mr. MacPherson that the farmer in his capacity as a producer would pay a subsidy, not as a shipper. The farmer may be both, shipper and producer, but in the handling of grain you market it through the country elevator and you would not pay the subsidy to the country elevator operator.



15682  
and  
15683

Commissioner Innis wonders as to C.P.R. policy with regard to changes in rates in relation to changes in prices. Mr. Evans for C.P.R. states that the rates should be based on all commodities on the ordinary principles of rate-making and fluctuations in prices and costs of railway operation, while not occurring at exactly the same time, nevertheless do occur about the same time and in about the same direction in both cases.

Mr. Evans has no proposal or formula by which rates would go up and down in relation to prices. In fact such would be a negation of all the present principles of rate-making.

Commissioner Innis suggests if there was a formula for flexible rates which meant a rise in the rates as prices went up or a decline in rates as prices went down, it might develop to the point where no subsidy would be needed. Mr. Evans replies that such a scheme would put a railway not on a commercial basis, but on a basis of speculation on all the commodities it carries, and railways would not be happy under such conditions.

15684

Mr. Evans for C.P.R. states that if, as a matter of national policy the government feels the western farmer needs help, the C.P.R. has no objection, but such help is a matter of policy between government and the taxpayer.

15687

The Chairman asks who suggested the railways be subsidized. Mr. Evans for C.P.R. stated that the Canadian Manufacturers Association and the Industrial Traffic League suggested some scheme along the lines of the Maritime Freight Rates Act might be adapted to fix grain rates whereby the subsidies be paid to the railway. The Board should be able to fix the level of rates on grain, and presumably the difference between the statutory Crow's Nest Pass level and the rate found by the Board, would be paid to the railway.

15689

Mr. MacPherson states that price of grain in 1938 lower than in 1898. Mr. Jefferson agrees there were some short periods when prices lower than 1898. Also states C.P.R. attitude is that Crow's Nest Rate unfair to the shipper of other goods.

15690

Mr. Jefferson does not know how the west can expect to have equalization in rates and still have low grain rates. Wants to know how you can equalize rates if you don't equalize all of the rates.



15695

Mr. MacPherson states that although the C.P.R. does not like the idea of a subsidy, a subsidy of \$11,000 per mile was paid in respect to the building of the Crow's Nest line.

Mr. MacPherson queries whether at the time the C.P.R. constructed the Crow's Nest Railway, it had any interest in the Consolidated Smelters.

15696

Mr. Sinclair for C.P.R. answering Mr. MacPherson states that the Columbia and Western Railway (the western terminus of the railway contemplated by the Crow's Nest Pass Agreement), and the development of the mining areas of British Columbia, and the C.P.R.'s interests in it antedated the Crow's Nest Pass Agreement.

15697

Mr. MacPherson contends that so far as the C.P.R. is concerned the Consolidated Smelters was part of the whole Crow's Nest venture.

15703

Mr. MacPherson examines regarding the bridge area north of Lake Superior.

15714  
and  
15714A

Witness says after 15% increase of Sept. 1948 on competitive rates in effect, C.P.R. reduced some items Toronto-Minneapolis and says increases for outweight reductions. Also some changes in classification.

15715

Cross-examination by Mr. Shepard regarding Canada's economic development and the freight rate structure, witness states that freight rates have been of great importance in developing Canada.

15716

Mr. Evans for C.P.R. assures the Chairman the present system of establishing and controlling freight rates means one wherein rates are established and controlled by the Board.

15717

Mr. Shepard discusses the results that might have flowed from economic union with the United States with reference to the level of rates and states the C.P.R. position is that level of rates would be lower today.

15718

Witness states people have wrong conception of the east and west and north and south movement of traffic. Dealing with interchange of traffic between eastern Canada and U.S., the interchange between eastern and western Canada was more than the north and south, but the north and south movement was a very sharp percentage of the total.

15719

Witness makes above comparison on the assumption there was no railway from Calgary to Winnipeg and all traffic from eastern to western Canada went through the United States, then rates from eastern Canada would be higher than they are today through Canada.



15720

Mr. Shepard states that if such development had taken place (i.e. movement through U.S. to western Canada) the whole economic pattern as it progressed over the years would have been very different, could not say what freight rates in western Canada would be today.

Mr. Jefferson agrees that if there was a free tariff between Canada and the U.S., there might be more traffic between western Canada and the U.S. than there is today.

15721

Mr. Evans for C.P.R. states there have been large representations made to this Commission who suggest because of the economic and railway development of Canada as it is, and because of the tariff policy there has been a flooding of traffic into the east and west Canada, and the people of Canada have been put at a disadvantage in respect of transportation charges.

15722

Mr. Evans further states that Professor Stewart had put it this way - the people of Canada had paid a very great deal for the privilege of remaining Canadian.

The Chairman interpreted Professor Stewart to mean that if we had thought only of running our railroads north and south, our market would not be eastern America or Europe but in the Middle West of the United States. Mr. Evans concurs.

15723

Mr. Evans states that the C.P.R. has two positions on this matter firstly, that the important traffic does move east and west whether through the U.S. or not, and secondly, if there was economic union with U.S. the trend of railway rates and costs would have been felt more greatly in Canada than it now has, and we would probably have gone along with U.S. and had higher railway rates rather than that they should have lower ones.

Mr. Shepard believes there is no use in speculating on this situation because the development of trade has fixed a pattern which is going to be followed in the future.

15726

Mr. Shepard for Manitoba recognizes that whatever economic and geographic disadvantages resulted from the tariff barriers in building U.P.R. must be accepted, but so not want discrimination in favor of or against any area in Canada. Maintain there is discrimination in favour of eastern Canada as against West on the general level of rates.

15727

Witness agrees that generally rate levels in U.S. are higher than rate levels in Canada.



15728

Witness states that reason exhibits show that rates in U.S. so much higher, because U.S. railroads have had so many increases so much quicker than Canadian railroads. Canadian costs have gone up much faster than we have had increases in freight rates.

15729

Witness agrees that to make a meaningful comparison of Canadian and U.S. railway operations necessary not only to compare rate levels but also to compare the costs of operations in the two countries.

15729

to

15731

Mr. Shepard asks if terminal costs would be higher in U.S. generally than in Canada. Witness says in large centers like New York and Chicago costs would be heavier, thus terminal costs would be a factor in higher operating costs in U.S.

15731

Witness does not agree that a higher standard of service in U.S. contributes to a higher operating cost in U.S., mainly because they have a higher volume of traffic.

15732

and

15733

Witness says route circuitry in U.S. would not be an important factor in increasing railway costs, perhaps on the greater volume of traffic it would have some bearing.

Mr. Shepard states that in U.S. only entitled to charge short haul rates, when goods have to be hauled farther than necessary, have to maintain a longer line and use more fuel. The Chairman concludes that the proportion between the costs and the rates is different from what it should be for the shorter haul - which is Mr. Shepard's point.

15734

Regarding differences in freight classification between U.S. and Canada, Mr. Jefferson states that more traffic moves at commodity rates than at class rates, perhaps not even 25% moves at class rates.

15740

In any rate comparison, witness says can make a comparison of rates on a given commodity between any number of points - use same distance and same commodity and compare rates in two countries.

15741

Mr. Shepard suggest another factor in any rates comparison would be the type of terrain and general climatic conditions that affects actual operations of the railway. The question of traffic density is another factor, as is labour costs. Witness agrees.

15743

Mr. Shepard examines Mr. Jefferson as to the following hypothetical situation. If traffic should drop because of competitive changes, and because of rising costs expenses did not drop, and as a result were not making a return on investment and required



15728

Witness states that reason exhibits show that rates in U.S. so much higher, because U.S. railroads have had so many increases so much quicker than Canadian railroads. Canadian costs have gone up much faster than we have had increases in freight rates.

15729

Witness agrees that to make a meaningful comparison of Canadian and U.S. railway operations necessary not only to compare rate levels but also to compare the costs of operations in the two countries.

15729

to

15731

Mr. Shepard asks if terminal costs would be higher in U.S. generally than in Canada. Witness says in large centres like New York and Chicago costs would be heavier, thus terminal costs would be a factor in higher operating costs in U.S.

15731

Witness does not agree that a higher standard of service in U.S. contributes to a higher operating cost in U.S., mainly because they have a higher volume of traffic.

15732

and

15733

Witness says route circuitry in U.S. would not be an important factor in increasing railway costs, perhaps on the greater volume of traffic it would have some bearing.

Mr. Shepard states that in U.S. only entitled to charge short haul rates, when goods have to be hauled further than necessary, have to maintain a longer line and use more fuel. The Chairman concluded that the proportion between the costs and the rates is different from what it should be for the shorter haul - which is Mr. Shepard's point.

15734

Regarding differences in freight classification between U.S. and Canada, Mr. Jefferson states that more traffic moves at commodity rates than at class rates, perhaps not even 25% moves at class rates.

15740

In any rate comparison, witness says can make a comparison of rates on a given commodity between any number of points - use same distance and same commodity and compare rates in two countries.

15741

Mr. Shepard suggests another factor in any rates comparison would be the type of terrain and general climatic conditions that affects actual operations of the railway. The question of traffic density is another factor, as is labour costs. Witness agrees.



15743

Mr. Shepard examines Mr. Jefferson as to the following hypothetical situation. If traffic should drop because of competitive carriers, and because of rising costs expenses did not drop, and as a result were not making a return on investment and required assistance, two alternatives open: one, pursue course of free enterprise and go bankrupt, or secondly, because C.P.R. essential in national economy, it probably would not be allowed to go bankrupt. Mr. Jefferson makes no comment.

15744

Witness says principles of rate-making at present laid down in Railway Act and decision of Board as carried out by the railways, have stood the test of time, and thinks any change would hurt Canada more than it would help Canada.

15744A

Regarding railway's monopolistic position with reference to long haul and bulk traffic, witness points out much bulk traffic lost between the head of the lakes and the Gulf of St. Lawrence, and between the Pacific Coast and Eastern Canada.

15745

Witness states traffic lost due to truck and water competition between Eastern and Western Canada over the Great Lakes and over the Trans-Canada Highway from Fort William West. States railways have not the same monopolistic position on freight traffic, that they had fifty years ago. Mr. Shepard agrees.

15746

Regarding greater flexibility and freedom for the railways in rate-making, witness says railways would like to have the opportunity of meeting competition without having to make varied charges on published tariffs.

Witness says would not need greater flexibility if there was the same stability of rates with all other modes of transportation as there is with the railroads.

Questioned as to which method would suit railways, that railways be exempted from filing tariffs dealing with competitive rates, or that railways' competitors be compelled to file tariffs, witness prefers the latter.



15747           Witness would prefer to leave rates including  
to           rate levels, subject to ceiling placed by Board,  
15748           up to railways subject to review by B.T.C. on complaint  
              from interested party.

15749           Witness says on revenue basis standard mileage  
to           class rates carry 5%, competitive rates 10%.

15754           Witness agrees that for twenty years B.T.C. and  
to           its staff were not concerned with matters which normal-  
15755           ly come up in a general rate case. All commissioners  
              different in 1946 from 1927.     Chief traffic officer.  
              Witness not familiar with type of expert assistants B.T.  
              C. has on its staff.

15756           Witness admits that statement "The level of a  
              competitive rate is not set by the railway but com-  
              petition" as set out in C.P.R. submission is not strict-  
              ly true. Railway makes rate after attempting in its  
              own judgment to decide the level they should be at  
              to meet competition. Really do not set but meet the  
              rate.

15760           Witness says that in case of competition railway  
              would not reduce rate from 25 cents to 20cents if it  
              did not feel it would get more traffic at 20 cents  
              than at 25 cents.

15764           Witness replies to Chairman to say that if railway  
to           had monopoly and trucks took it away would reduce rate  
15766           to 20 cents. Then it would get some business. Whereas  
              otherwise would get none at all. Has less revenue at  
              20 cents than at 25 cents if it could hang on to all  
              the business, but fact is could hold on to none of  
              its 25 cents because of competition.

15767           As to submission of C.P.R. that community in  
to           which the railway does not have to compete with other  
15769           transportation agencies does not suffer when the rail-  
              way established competitive rates in another area,  
              witness maintains if no competition rate would remain  
              at high level.

              Agrees that if railways do not meet competition  
              in competitive areas the traffic tends to all the larger.

              Manitoba objects that if competitive traffic  
              increases substantially in the future, does not seem  
              fair that people paying the long haul traffic charges  
              should be indefinitely expected to pay more than ordinary  
              return on that traffic in order to make up for the  
              somewhat depressed return on competitive traffic.

              Does not suggest railway's competitors should be  
              any less.

              Shepard for Manitoba has no solution for competitive  
              problem.



15770

Mr. Evans points out difference between Eastern and Western rate levels now practically nothing.

15770

and

15771

Mr. Shepard says problem is that rates in competitive area pushed down and in non-competitive area raised. Can't say what to do with this situation but wants to make sure competitive rates are compensatory and that increases when they take place, will not bear too heavily on non-competitive territory.

Mr. Shepard states further that if volume of traffic does not change in same proportion East and West, rate level comparison would be out of line.

Mr. Evans points out that East is pretty well developed to track competition whereas West is still potential.

15783

On question of comparing compensatory character of competitive rates by taking railway's average, Mr. Evans says that if they were to take \$13,000,000 to \$15,000,000 revenue from Crow's West rates, and measure it against the total amount of competitive traffic, you would find that one item is so big in relation to the total that it would drag down the average of all competitive rates.

15784

Commissioner Innis considers that the study prejudices the reader because it takes only a small sample of the competitive traffic and pays little attention to rates which are below the average.

Witness says difficulty is that you can't find competitive traffic where car-mile earnings in many cases are below the average.

Commissioner Innis says if you can't find many below the average, then there must be a very few above the average.

Witness says there are a lot above the average.

Commissioner Innis then wants to know how you get the average.

Mr. Evans explains it was traffic moving at low rates; when you consider the traffic moving at i.e. grain rate and livestock rate, such rates tend to drag down the average.

Commissioner Innis wants this brought out.

15786

Mr. Evans agrees that these averages have all the weaknesses of any arithmetical average.

The witness contends competitive traffic selected is representative but is unweighted for the volume of traffic, because they could not do it any other way.



15795                   Witness says he has made no similar study re  
to                   international rates and special commodity rates.  
15791

15796                   Mr. Shepard points out that l.c.l. traffic 2.66%  
to                   of total tonnage, but 17.04% of total cars in 1948.  
15799

Witness says we all know that way freight cars in themselves do not pay, but you have got to give the service. Could not increase rates where had way freight cars and not increase on the same traffic where you had merchandise cars (i.e. from Toronto to Montreal not stopping en route). Can't let cars earning on l.c.l. traffic except by fortissine competition. But are trying to meet competition by agreed charge and RUD. Has no idea of amount of l.c.l. traffic moving under class rates.

15803                   Witness could not say how much l.c.l. traffic is compensatory and how much not. Agrees if part non-compensatory, other shippers have to make it up.

15804                   On question of branch line way freights being non-compensatory witness says it is not rates themselves that are non-compensatory but the volume.

15806                   Witness says way freights on main line may not  
and                   pay either but losses are not so striking.  
15807

Evans points out that added cost of a way freight car on a train with carloads of freight is very small.

15812                   Witness says agreed charge must cover all or  
to                   a substantial portion of traffic moving to all points  
15814                   served by the railway. Do not make an agreed charge merely between two points. If a large part of traffic moves to a point not served by railway at all; of course this is excluded. Might require that man ship as far as he can by rail.

15818                   C.P.R. had argued that vesting of jurisdiction  
to                   of Crow's Nest rates in S.T.C. is necessary in  
15820                   order that rates may be just and reasonable for other kinds of traffic. Witness says if grain rates had been in with other rates subject to 30% application, instead of a 21% increase coming out of the judgment would have been only 18%. Of course this assumes C.P.R. would have been content with same gross revenue.

If Crow's Nest put under board witness does not visualise a reduction of rates in other traffic because C.P.R. needs more money and are applying to S.T.C. now for an increase.



15821  
to  
15822

Mr. Shepard for railroads says farmers in West are not complaining (except as to discrimination regionally) that rates on other important commodities high just because rates on grain low.

15824  
and  
15825

Mr. Shepard asks whether fact that only two railways in states compared several in U.S. does not seem need for careful regulation.

Witness maintains that the fact that there are only two railways does not harm the consumer.

15826

Exhibit 171 shows increases in freight rates in Ontario and Quebec compared with prairie territory and Pacific territory of 147%, 37% and 31% over 1914. This is on assumption proper relationship existed in 1914. Exhibit annexed each equalled 100. relates to standard mileage rates and have more competition today.

15833

Mr. Evans says railway gets prior approval of B.T.C. before rate becomes effective. B.T.C. supposed to see that no unreasonable rates allowed. Charges in U.S. railways file rate, it is prima facie reasonable and can be attacked at any time.

15837  
and  
15838

Mr. Smith for Nova Scotia points out that C.P.R. have insisted that practice of I.C.C. in respect to exceptions from horizontal increases is not an authority to be applied in Canada, because the railways themselves in U.S. are responsible for the practice of having exceptions to horizontal increases. They also submitted that this was largely attributable to fact that there were a number of small railways in U.S. who wanted to keep industries located on their lines.

Mr. Smith brings out that many of railways in U.S. very large (i.e. N.Y.C., Santa Fe) and cover wide territory.

15843

Mr. Smith points out that I.C.C. in 1913 (1920) when objections to horizontal increases stated:

"The adoption of specific increases in cents per unit instead of a percentage increase will, of course, maintain existing relationships. However, the carriers almost uniformly opposed this method, and it is not generally advocated by shippers."  
No exceptions were allowed.

15845  
to  
15846

Witness agrees that 208 I.C.C. (1935) was first time in which applicants themselves proposed general exceptions from horizontal increases.

Mr. Smith says in this case applicants were substantially all Class I railroads in U.S.



15847  
to  
15852

Mr. Smith quotes from decision of I.C.C. in  
270 I.C.C. (1948).

Witness agrees with statement in that decision  
that the application of a percentage increase in rates  
widens the amount of difference between high and low  
rates, but does not agree that this often occurs to such  
an extent as to exclude the long haul shipper from  
the common market or to compel him to reduce his prices  
so that he has no profit.

Does not apply to Canada because price of goods  
has gone up. If price up 50% and freight rates up  
20% long haul shipper better off than before.

15854

Mr. Smith contends that I.C.C. 270 clearly indicates  
that system of exceptions was one employed in previous  
rate proceedings by I.C.C. and did not originate with  
railways.

Witness replies that if you compare railways' ap-  
plications to I.C.C. with the decisions of I.C.C.  
you will find railways asked for a lot of exceptions.

15855  
and  
15856

Mr. Smith refers to 276 I.C.C. (1949) where it is  
stated as follows:-

"With very few exceptions the attitude of the  
shippers and public bodies appearing as protestants  
is one of forceful opposition to any further  
increases in freight rates and charges ...in general  
their positions show the diversity of interests,  
borne out of competitive relations between  
localities and also as between commodities that  
have characterized every general rate increase case  
-- magnified in intensity as the cumulative  
effects of previous increases, and present proposals  
are felt sharply."

Witness agrees that Commission there referred to  
position taken by shippers, but emphasizes that in  
this case (Ex parte 160) there were few exceptions  
granted in comparison with Ex parte 160.

15860

Witness agrees Ex parte 148 application for an  
increase in rates was made in 1942, and Ex parte 162  
in 1946, but because of war Ex parte 148 was suspended  
and then eventually in 1946 two applications came on  
to be heard together.

Agrees exceptions referred to important commodities  
and heavy traffic movements such as grain, cotton, citrus  
fruits, potatoes, cattle, sheep, feed, iron ore and logs.

15861

Witness says situation in U.S. no different from  
this country where every shipper has right to appeal  
to the B.T.C. re exceptions to horizontal increases.



15002

Mr. Evans refers to 275 I.C.C. (1947) where it is stated:

"Contrariwise, shippers located so that their traffic moves shorter distances, pay or almost a lower basic rate, and are subjected to a lesser amount of increase if the same percentage is applied to their rates as to the rates charged the competing long-haul shippers. This advantage they consider as justly due to their geographical situation and as properly to be insisted upon by them."

15003

Mr. Evans refers to 248 I.C.C. It is along the same line. He says "Incidentally, it is not rejected in most needs of commerce and industry as we saw them in particular proceedings."



- 15895 to 15896      Witness cannot Offhand refer to any competitive rate which is justified because of the direction of traffic movement, which was one of the tests compulsory character.  
Says heavy flow of traffic from Calgary to Regina and want of back-haul in tank cars couldn't make different rate on grade work was happening to go from Regina to Calgary.
- 15897      Witness explains by density of traffic in this connection refers either to density of movement itself or the density of movement on that particular section of line.
- 15899 to 15900      Witness says if light density and created more traffic for the line without additional trains, rate would be lower. Says he has no particular rate in mind. Would not say low-valued traffic not paying its full share of the overall cost, but only that it is not paying as large a share.
- 15904 to 15914      Witness agrees automobile rate - Windsor to Montreal \$1.10 per 100 lbs., in line 500 to Montreal 27 cents or less than one-quarter auto rate, but car mile costing 22.7 cents on automobiles compared to 46.8 on pig iron. Won't say pig iron is contributing less than its share when you compare it with automobiles. Witness would have to know cost of service - such rambling around as witness keeps hedging.
- 15915 to 15917      In connection with process of setting special commodity rates the witness says: railway determines what rates are charged other similar industries on same commodities for same or similar movements. Aside from competitive conditions would give the same rate on pulpwood - e.g. says so in Western sheet.
- 15918      Would not give preferential rates to one shipper because it is against the law and would have to make same reduction to other shippers in same position.
- 15921      Witness says would normally give two shippers the same rate whether or not they are shipping to a common market.
- 15926      Offhand witness cannot tell of any rate in Western Canada published for the express purpose of assisting an industry at that point to the exclusion of other shipping points. - No doubt there are some. In setting rates to help a shipper, must refer to all shippers of a particular commodity as a whole.



15927

Witness does not recall any cases where the C.P.R. and the C.N.R. would have opposite views on the principle of rate making.

Says each railway could use its own judgment, but if he was making a rate on a commodity from some existing point of production or some new point of production on the C.P.R., at a local point on the C.P.R. and the product was to go to a common market such as Winnipeg, and there was a similar industry at a local point on the C.N.R., the C.P.R. would be making rates for the industry on its line recognize or give some recognition to the rates that were in effect from the local point on the C.N.R. to Winnipeg.

15928

Witness says if shipper complains rate is not just and reasonable onus is on him to prove it.

15929

Mr. Frawley for Alberta asks how railway measures rate when shipper claims it is unjust and unreasonable.

Mr. Evans explains that railway looks at other rates as a basis of comparison and then tries to see if rate reasonably compensatory.

15931

to  
15940

Witness says that anyone who complains to B.T.C. that rate is unreasonable must make out their own case and railway would have to answer it. Whether or not they could answer it simply by saying rate was less than standard mileage class rate would depend entirely on nature of complaint.

15933

to  
15940

Mr. Frawley says rate on asphalt in Ontario and Quebec is same as rest for 75 miles, 2 cents more at 100 miles and 13 cents more at 500 miles.

Witness says complainant would have to show there is competition between the shippers in the two areas. Rates and conditions are not similar as required in Section 314 of the Railway Act. Are not on the same line or route if they are in two sections of the country.

15942

Witness says from operating and climatic point of view railways in Northern C.N. very similar to those in Western section. Says the similarity applies throughout Canada.

15944

to  
15947

Mr. Frawley draws attention to fact that in wage disputes railways had said conditions between U.S. and Canada were different - different density, value of dollar, dependence on world trade.

Witness replies that as freight rates as index of no better comparison than with U.S.



15986 Long series of questions re possibility of errors in  
to quotations and shipper in Alberta being charged the  
15988 published tariff from Toronto instead of rate to Vancouver  
plus back-haul. Witness says of course he could apply  
for a refund. Mr. Pringle says he might not know of  
situation and not apply for a refund.

15988 Witness says rate on canned goods Vancouver to Toronto  
to \$1.40, Vernon \$1.40, Brooks \$2.09. First two are 70,000  
15985 pounds minimum and last 40,000 pounds minimum. Have  
water competition at Vancouver - possibility of shipping  
from Vernon to Vancouver in order to take advantage of  
water competition, but have added nothing for cost of  
rail haul from Vernon to Vancouver.

Says railway has never been asked for same rate from  
Brooks as from Vernon.

Witness says lumber from interior gets lower rate  
to Toronto than from coast.

Witness agrees Vernon man has no legal right to  
claim Vancouver rate - it is a voluntary extension.

Vernon and Brooks are not shipping the same  
commodities so man at Brooks is not hurt by lower  
rate from Vernon - is not actual detriment because  
there is no competition.

Witness then agrees the low rate tends to keep industry  
going at Vernon and therefore furnishes freight to the  
railway on long-haul.

15988 Asked why he was not as solicitous about the infant  
industry at Brooks, witness says there might not be  
the necessity for the same rate from Brooks as from the  
interior of B.C. This necessity is measured by whether  
the same commodity is being shipped.

15989 Aylmer has same rate to Vancouver as Montreal - truck-  
to ing charge from Aylmer to Vieux is absorbed by Canada  
15991 S.S. Lines, but even then there is the cost of carriage  
to Montreal. Moreover ocean rate from Montreal is  
below \$1.40 which is the amount the railway charges  
from both Montreal and Aylmer. Are realized partly  
because of market competition in Vancouver.

15994 Chairman says that in electricity the nearer one is  
paying more than he ought to pay at first sight and  
far-away man is paying less.

16001 Blanketing puts suppliers on the same basis freight-  
wise in a common market. Also mileage by Canadian  
railways from Montreal and from Windsor to Fort  
William is approximately the same.



- 16010 Mr. Frawley says a group of shippers in Western Alberta at Tabor, Magrath and Lethbridge are very close together but are not blanketted.
- 16011 Witness recalls that railways have not seen the necessity for it and it is up to the railways to decide.
- 16012 Witness says some transcontinental rates are to meet competition from Europe - other rates to meet competition from California - e.g. empty bottles from Redcliff to Vancouver and from California to Vancouver.
- 16014 Witness explains Great Northern runs into Vancouver on its own tracks, but no American railroads into Alberta. If they did run into Alberta rates might be higher than on purely Canadian roads because American rates have gone up so much.
- 16017 Says rate on salt from Western Ontario to Vancouver reduced to meet competition from California.
- 16027 Witness knows of no case where B.T.C. has set aside a competitive rate because it is too low. Cases of no one who asked except one of Steamship lines and on an agreed charge; and another case where one Steamship company published low rate to Lakehead and others protested.
- 16033 Witness points out that in accordance with U.S. law I.C.C. is making it difficult for railways to compete with waterways.
- 16034
- 16036 Witness had stated at page 15504 that U.S.A. would have to forego traffic to coast if had to apply coast rates as maxima to intermediate points. Says U.S. roads have done same thing.
- Agrees they are hauling freight to coast in rates which are the same as to intermediate points but they might get a lot more transcontinental traffic if they were allowed to have a lower rate to the coast without pulling down intermediate territory.
- 16038 Witness points out all U.S. railways have a committee in Chicago dealing with this situation.
- and
- 16039 Asked if Canadian railways have anything comparable, replies there is Canadian Freight Association and they have meetings every month for about a week either in Montreal or Toronto - principally Toronto.



16040           Witness says railway reduced rate on salt from  
to           Western Ontario to Vancouver from \$1.48 (30,000 pounds  
16043           minimum) to 75 cents (70,000 pounds minimum) - in this  
way got some business - revenue per car \$332 compared  
to \$25 - not possible per car worse to extent of \$7  
and the extra cost of hauling 70,000 compared to 30,000  
but hauled almost no cars at \$148.

16044           Mr. Frawley tries to bring out that railways not  
to           consistent for in some cases they carry the rate to the  
16045           distant competitive point back to the intermediate one  
and in some cases they do not - much rambling.

16055           Long discussion between Mr. Frawley and witness re  
to           relationship between rates on livestock and those on  
16061           fresh meats and packing house products. Alberta advo-  
cates a neutral relationship to be achieved if neces-  
sary by increasing rates on livestock and decreasing  
rates on finished product in order that processing will  
be done in Alberta.

Witness maintains meat and packing house products  
rates are reasonable and cannot be decreased and to  
increase livestock rates would seriously disturb the  
industry. Does not see how Alberta recommendation could  
be carried out. Thinks principle would have to be  
applied all over country cannot be confined to live-  
stock rates.

16068           Witness says revenue per ton-mile on iron billets  
and           from Hamilton to Montreal is 71 cents compared to  
16069           Eastern average of \$1.27 - car-mile revenue 40.3 cents  
compared to Western average of \$6.3 cents. Says these  
rates are compensatory because on this commodity the  
car-mile average is a more significant indication of the  
compensatory nature of a rate than the ton-mile rate.

16069           Mr. Frawley points out Mr. Jefferson had said pre-  
to           viously in evidence that car-mile earnings on autos  
16076           from Windsor to Montreal of 22.2 cents is considered  
compensatory because of ton-mile earnings of 4.17 cents  
against average of 1.27 cents.

Witness thinks consideration must be given fact  
that in autos railway hauls 10,637 pounds and in billets  
113,900 pounds.

Witness says if autos hauled 1000 miles instead of  
567 from Windsor to Montreal at 22.2 cents would not  
think rate sufficiently compensatory if could get here.  
22.2 cents is a competitive rate - normal rate higher.  
Would consider it compensatory if there were some com-  
petitive reason justifying it.

Witness won't admit should measure normal rates by



16069  
to  
16076  
(cont'd)

that railway has to do on competitive rates. Says even normal rate of 24.6 on autos Windsor to Montreal not up to average because of light load.

16076  
to  
16079

Mr. Frawley points out revenue per car-mile on coal Alberta to Sudbury - 1768 miles - is 23.3 cents and that witness has previously said this not compensatory although higher than car-mile earnings on autos Windsor to Montreal, which he said was compensatory. Witness had also said rate on grain from Regina to Fort William of 29.5 cents non-compensatory.

Witness replies there is no relative comparison between car-mile earnings on autos and coal because autos so lightly loaded and cost to haul 100,000 pound car more than 10,000 pound car. Was no idea how much more cost is.

Average car-mile earnings in Eastern Canada 36.3 cents in 1948. That rates in Eastern Canada below this average, besides at end east grain rates, witness can't say.

Asked on what other traffic in Eastern Canada rates are below the average - witness says he has not analysed every movement.

Mr. Frawley tries to bring out that non-competitive rates on low valued commodities are well above the average car-miles earnings. Witness will not commit himself, says it depends on the length of haul.

16079  
to  
16087

Witness defines term "continuous route" as mentioned in section 336 of Railway Act as a route by which you can carry traffic from A to B over two or more railways.

Frawley says there is joint rate on cement from Exshaw to points on C.P.R. in West and that this rate is merely sum of locals - often 10 cents or 15 cents more than is paid by man who receives it on C.P.R. Wants some amelioration of the two local rates. Does not ask that Commission should recommend any change in legislation on this point, but only to admonish B.C.R. not to approve joint rates equal to sum of the locals.

16087  
to  
16089

Witness says there has been no complaint on joint rate on cement. Says B.C.R. accepted the tariff for filing. B.C.R. does not approve any tariffs except standard mileage class rates and demurrage.

16090  
to  
16090B

Witness replies there is no joint tariff on brick from Badeliff on C.P.R. to C.P.R. points, but have negotiated individual rates to some C.P.R. points. These latter rates are sum of locals less one cent for each road - two cents altogether.



16090B

Says railways determine when a joint interline rate is necessary.

16091-  
to  
16094

Witness says there may be some difference in costs at single line junction points on the same railway and at interchange points between two railways, but they would not be appreciable. Two line rates should be higher than one line, but C.P.C. has never established just and reasonable charges for interchange operations.

Mr. Frawley says section 337 of Railway Act provides a remedy when there has been a failure under section 336 to establish a joint tariff.

Witness says he cannot give any decisions from memory but thinks there may be some cases where complaints were made to C.P.C. due to failure of railways to establish a joint rate and C.P.C. may have prescribed one.

Witness says interline rate like every other rate in hands of the Railways subject to complaint to the C.P.C.

16095  
to  
16096

Witness explains on coal in West two-line rate is one-line rate plus 40 cents a ton. On lumber add one or two cents per hundred pounds.

16096  
and  
16097

Commissioner Innis asks if there is not danger in interline rates that economy divided between points which are fortunate enough to be on the same line and those which are unfortunate enough not to be on the same line.

Witness replies that railway believes they have interline rates where interline rates are required and where there is necessity for them.

Mr. Evans says there are certain two-line rates on Quebec Central even though owned by C.P.C. - It does not follow they all are.

16098

Have been no complaints, but Commissioner Innis suggests this because shippers and consignees have little expectation of getting redress. That there are no complaints does not prove shippers satisfied. Witness agrees no use complaining because the basis is well established, but penalty is not a large one.

16099  
to  
16101

Witness agrees that purchaser of cement in Alberta pays more for cement if he lives on C.P.C. than on C.P.C. Exshaw plant of Canada Cement has a virtual monopoly in that territory.

Mr. Frawley says Canada Cement Co. was frankly not interested in the matter.



16101

Mr. Frawley says freight rates have a lot to do with where a man is located in Western Canada.

Witness agrees but says not so much as between one railway or the other but if you are talking about industry, he is going to locate where he thinks is best place to market his product. Does not agree man is foolish to locate at point not served by both railways.

16105

and

16106

Mr. Frawley thinks interline rates should be more widely practised and made on a basis which reflects generally an interline rate which would be less than the sum of two locals. Says if this Commission did nothing more than to observe the situation and comment on it in line with his submission that would be sufficient.

Mr. Evans thinks it impossible for Commission without going into all the details of various rates as to why they exist and to know whether somebody was hurt, should decide whether there was an anomaly.

16111

to

16114

Witness says railway gives low distributing rate because they get haul into distributing point. On traffic from U.S. no haul in and so will not make the border ports of entry distributing points.

16115

to

16116

Witness says from Calgary to Coats R.P.R. charges distributing rate of 51 cents whereas from Coats to Calgary charge full rate of 62 cents. C.P.R. does have one or two international joint rates through Sweet Grass - northbound on crude oil and southbound on metals and metal concentrates.

16120

Witness admits fact railway gives no distributing rate on international ports of entry due in part because similar goods are produced in Canada.

Says railway sets just and reasonable rates and not intended to be protective tariff.

16121

Says railway might adopt distributing rate from boundary if revenue preserved.

16122

Witness knows that rates on agricultural implements from Western U.S. to Western Canada have been increased more than from Eastern to Western Canada. Can't say that this has caused an increased movement from Eastern Canada.

Mr. Evans says some freight goes from Chicago to Windsor and hence to Western Canada via Canadian roads.

16123

and

16124

Witness explains that in 1912 Canadian railways gave Canadian manufacturers of farm implements the same rates as applied from Chicago. Thinks rate from



16123 Eastern Canada should be 6th class with Chicago rate  
to as maximum. Applied for an increase and N.P.W. sus-  
16124 pended increase. Now waiting for a decision.  
(cont'd)

16124 Mr. Frawley brings out it would be cheaper to ship  
and canned goods from Western Interior to Detroit, re-bill  
16133 to points, re-bill to Alberta point all at local rates  
were it not for rule 210 of Central Territory Railroads  
Freight Tariff 260-W, I.C.C. 3184 "rates named in  
tariff will not apply to form combination rates from  
points in Canada to points in Canada".

16133 Mr. Frawley brings out Montana lines tariff has  
to same rule - these rules introduced at request of  
16135 Canadian railways in 1928.

16137 Witness says U.S. railroads might have same rule.  
and Canadian railways if they can prevent if are not going  
16138 to permit rates in U.S. to break down Canadian rates  
any more than U.S. roads would permit rates in Canada  
to break down U.S. rates.

Says only difference is they do not have to put  
a rule in their tariffs like this on traffic going from  
the U.S. to U.S. points through Canada, because in the  
U.S. they are called to change the rate in their tar-  
iff, whereas in Canada not held to this rigid rule.

Says in only a few instances and from a few ship-  
ping points that rate through west coast could beat  
all Canadian rate - mainly from Essex County, but  
might apply from Niagara.

16138 Mr. Frawley thinks railways are unreasonable in  
not allowing Alberta receiver to use these rates in  
few cases in which they apply.

16139 Witness says it would mean very little to customer.

16143 Witness does not know if railway would lose much  
revenue by uniform mixing rule - probably not - other-  
wise would object to any change. C.P.R.'s policy of  
neutrality on this matter is not based on the grounds  
they cannot defend present practise.

16144 Witness says mixing machines must be brought in at I.C.C.  
rates of over 19.00 from Toronto, whereas of unrestricted  
mixing rule rate of 12.00 - but says isolated case.

16150 Mr. Barry for Province of N.B. says comparison of  
to rates in Exhibit 142 between Bangor and Buffalo and  
16153 N.B. and Toronto on potatoes does not take into account  
F.O.I. under N.B.P.A. Says compares what shipper pays and  
not what railway receives.

Witness says no concession Eastbound.



16154

Witness agrees railway wages higher in U.S. - \$3,300 compared to \$2,700.

Witness does not know that I.C.C. allows higher rate from Chicago than on other lines is New England because of low density.

16155

and

16156

Witness says horizontal or percentage increase is not prejudicial to long-haul hauler as long as price increases are the same.

Says it is hard to determine what additional revenue railway would need with a lot of exceptions. Says if increase is 20% with maximum of 12 cents a 100 pounds, railways does not become operative until rate over 30 cents.

16157

Witness thinks U.S. railways largely responsible for exemptions from horizontal increases.

Witness denies that C.P.R. not interested in maintaining industries that are located on line some distance from centre of country - even though only the railways in Canada and many in U.S. Thinks what Duncan said in report all imaginary. Fact that Ontario and Quebec not represented before Commission does not mean anything.

16159

Agrees with Commissioner Innis that prices of all commodities would not rise at same rate and price of some might not rise as fast as rise in freight rates, but does not think you could find a commodity that has not increased by amount greater than freight rates. Price rise the same for all shippers but rates rise in dollars by varying amounts the same per cent.

Agrees nearer man is asking more money than far away man.

If distant shipper came to railway and said he could not ship, railway would probably adjust. Might help if worse off and just if could not ship.

16160

and

16162

Mr. Evans refers to 58 I.C.C. 220 and 208 I.C.C. 11 (1931) - nothing re railways asking for it but I.C.C. did not make exceptions.

16170

and

16172

Mr. Brazier for Province of B.C. asks whether just before applied 25 cent increase in 1931 from C.P.R. rate/coal from Alberta to Vancouver by 85 cents. *See*

Witness replies they had to meet C.N.R. rates which had not met before - prior rate had been in for a number of years. Admits C.P.R. was in dire financial straits. C.P.R. traffic has increased since.



- 16172        Witness says railway grants Osoyoos same rate as  
to        Penticton plus 2 cents differential. Lusty has no  
16175        differential though same distance off main line as  
Osoyoos. Shippers at Osoyoos agreed to differential  
but now want it removed. Want same rate as Penticton  
so they can compete with it. Shippers concerned were  
lumber, fruit and vegetables - not an agreed charge.
- 16176        Mr. Evans says it was not a contract that could  
be enforced.
- 16183        Witness does not know whether C.P.R. passenger  
department lost business in 1949 or not.
- 16189        Witness says standard passenger rate in B.C. is  
1/2 cent higher per mile than in rest of Canada. Thinks  
differential is justified in mountains.
- 16190        Thinks B.T.C. wrong in their recent judgment and  
does not feel compelled to accept their decision as far  
as freight rates are concerned and apply it to pas-  
senger fares.
- 16191        Witness says may not pay this transcontinental  
fares because fares from Toronto to Vancouver held down  
by fare via Detroit. U.S. fares increased recently  
and Canadian transcontinental fares increased too.



16197                Witness says rail rates are higher to Vancouver  
and                than water rates because service by rail is better.  
16198

     Says rail rate Montreal to Vancouver on autos  
is \$177.50 assuming there are four autos in car.

     At one time railway had transcontinental rate on  
autos but this has been eliminated in recent revision  
of transcontinental rates.

16199A              Witness says railway charges first class rate  
Oshawa to Saint John on autos going by water.

16200              Says in spite of transcontinental rates on tramp  
and glass railway loses to steamers.

     Witness thinks competition from steamer is going  
to be more severe than it was during war years not only  
with respect to west-bound traffic but also with re-  
spect to eastbound traffic but also with respect to  
~~eastbound traffic.~~ Says he has been advised that  
MacMillan interests who are interested in both lumber  
and canned salmon, in their own protection are going  
to have a steamer at the opening of the St. Lawrence  
system from Vancouver and other B.C. ports to Montreal.  
This will be in addition to those running at the  
present time.

16202              Prior to World War II forest products and ferti-  
lizer were shipped by boat from Vancouver to Eastern  
American ports.

16209              Commissioner Angus asks if railways should not be  
to                allowed to decide when rates reach the point where any  
16213              higher rates would lead to drying up of traffic.  
Mr. Evans agrees. Both suspect a person who says "I  
am going to protect you from your own folly".

     Mr. Evans says I.C.C. did this in 1931 and 1935.  
C.P.R. tried to forecast for year ahead of rate case  
but not very successful.

     Mr. Evans says railway has never asked for more  
than they really needed at the moment on ground under-  
going period of relative prosperity in terms of a large  
volume of traffic and needed to build up reserve in  
good times. Wants have asked board not to whittle the  
railways down too closely when business good.

16215              Commissioner Innis says too little has been put  
forward on rates designed to develop traffic and too  
much on the business of plucking the goose with the  
least squawking.

     Mr. Evans thinks this is not the correct termin-



16215  
(continued)

class - it is essentially a trading thing. Refers to Mr. Locant's book and subject of how value-of-service principle operates. Railway Companies have services to sell, and they sell them, having regard to defined principle and subject to regulation by the Board, at what they feel will develop traffic, because it is in their interest to develop traffic.

16217  
to  
16220

The witness states that he does not determine lower limits of rates on basis of cost, but on basis of yield. That he compensatory in sense it covers out-of-pocket costs but can't calculate costs on any particular type of traffic. Even if below the statistical average is not necessarily carried at a loss.

16223  
to  
16225

Witness explains he can ask research department to make special study of costs. Says he asked recently for rates on fuel oil from Alberta and Saskatchewan, to northwestern Ontario points. Could not make rate industry asked because information from research department showed return too low.

Witness points out that on agreed charge on petroleum gas data from own research department and also from oil companies re their costs of shipping by truck

16226

Witness would consider giving low rates to get industry started and then perhaps increase them later when it could pay more.

Witness would not give rate which did not yield some return unless he was reasonably assured that within 12 months industry would be able to pay higher rate that would yield a fair return.

before

Could not make rate if it were three years/rates could be put up.

16227  
and  
16228

Witness says every rate must be compensatory at the outset - if above out-of-pocket and as long as railway was going to make something, might be satisfied with that rate for a year or two and get something higher later on, but difficulty is that once the railway puts in a rate to help an industry in that way and to expire in a year or two, industry is always after you to extend it and you can never get it up.

Witness admits this points rather to the interest of the railway in immediate revenue rather than terms of long run traffic development.

16229

Witness agrees with Commissioner's view that the Board might not let railway keep where it has come.

16229

Witness says he asks research department for a dozen or two studies each year - e.g., Agreed Charge on Salt, Windsor to Beechamrois.



16235  
to  
16242

From tables in C.T.C. brief Mr. Brazier shows revenue per car varying from \$50.30 to \$553.30 (sugar from Paris to Toronto and sugar Saint John to Hamilton). Revenue per ton mile varies from 71 cents to 7.09 cents. In Western Canada varies from high of \$44.47 per car on canned goods Kelowna to Vancouver to a low of \$19.83 cured meats Apperton to Vancouver. Revenue per ton-mile in Western Canada varies from 6.43 cents on cured meats to 1.18 cents on wine props. Variation about ten to one.

Mr. Brazier thinks railway cannot possibly arrive at any idea of what its costs are by taking an average of figures that vary in earnings as much as these do.

Witness says must test them individually. Then says, in effect, these rates are based on costs of competing carriers and C.T.C. must meet them. Says only a few of these averages are below the system average.

16242

Witness admits on billets per ton-mile (71 cents) substantially below system average but not per car-mile. Having determined that under one of the tests rate was substantially below witness says he would not have study made to see whether compensatory or not. This because yield per car-mile above system average and had to meet competition by water.

16242  
to  
16243

Asked if the particular rate worked out on an average on any of these bases is above the system average would he be satisfied that it is a compensatory rate, says yes, if there is a necessity for the rate, but would not reduce the rate just because it is above the average.

16243  
to  
16249

Witness agrees C.T.C. may say to shipper "You may not like this rate but it is just and reasonable according to the railway standard and because it is a proper rate." But B.T.C. would consider all the facts.

Mr. Evans says rate must be reasonable to both shipper and railway. For general level may have absolute test i.e., do rates in aggregate cover all railway operating cost. For individual rate may be relative test.

16252

Mr. Brazier points out rate canned fruits and vegetables from Chatham Ontario to Ottawa 486 miles is 43 cents for a 30,000 lb. car. From Kamloops to Fernie B.C. 421 miles rate is 77 cents for s.l. of either 24,000 or 40,000 lbs. Asks witness how he would justify the reasonableness of these two rates one with the other.

Witness says there is no relationship even though the same product over the lines of the same railway and would have to know whether class rate, commodity rate or what.



16253 Mr. Brazier points out peaches and apples Kelowna  
to Nanfri 303 miles 37 cents - substantial movement.  
16256 Same products Hamilton to Kamrooke 303 miles 35 cents.

Witness explains no competition between the two  
areas - do not sell in common market - Ontario rate is  
truck compelled one. Agrees that shipper in West is  
making a larger contribution to overall requirements of  
railway. Agrees is true in this one instance but many  
rates in West lower than in East.

16256  
to  
16257 Witness admits shipping out of Kamrooke may be  
better than 20 years ago because larger volume, better  
equipment (though costs more to maintain), and because  
better storage warehouses movement is spread more  
evenly throughout the year. Still classification of  
apples should not be reduced.

16258 Mr. Brazier points out witness had criticized the  
cost-of-service principle at page 13913.

Witness explains if freight rates on the commodi-  
ties produced in B.C. such as lumber and shingles or  
fruit and vegetables, paid their normal freight rates  
for all destinations in Western and Eastern Canada they  
would not be able to market their products.

16263 The Chairman asks Mr. Brazier if there is any  
country wherein railways are carried on applying the  
cost-of-service principle. Mr. Brazier replies that  
he thinks it is a theory of rate-making which is only  
beginning to get some acceptance in railway circles.  
He thinks it should be applied by Canadian railways but  
not too rigidly.

Mr. Brazier replies to Commissioner Adams that he  
thinks to the words "just and reasonable" should be  
added "in relation to the cost of service".

16265  
to  
16266 Comparison of rates, car and car-mile earnings on  
lumber and apples Vancouver to Winnipeg, Vancouver to  
Montreal, and Kelowna to Winnipeg, Kelowna to Montreal.

16268 Witness states could not expect same car-mile  
revenue on traffic that travels 1,464 miles as you would  
on traffic travelling 420 miles.

16270 Witness says lumber to Montreal not particularly  
compensatory when it pays only 20 cents a car-mile  
compared with system average of 33 cents. Apples not  
much below average at 27.4 cents.

16271 Witness thinks you would find that westbound trans-  
continental rates yield much higher car-mile revenue  
than eastbound lumber.



16272  
to  
16287

Minimum pick-up-and-delivery scale is 31 cents for group 1, 27 cents group 2, 24 cents group 3, 17 cents group 4. Witness says railway has same pick-up-and-delivery at 30 miles e.g., Montreal to Lachine 41 cents, 43 cents, 36 cents and 31 cents. Full cost at Montreal 14½ cents and 6 cents at Lachine. Thinks remainder (on group 4) of 10½ cents is profitable.

Agrees if railways losing money on any particular traffic, shippers would be better off if traffic given up.

16289

In reply to Mr. Covert the witness agrees that the C.P.R. is clearly of the opinion that the agreed charge is necessary to enable it to compete with other forms of competition which are not regulated.

16290

Witness says he thinks if all modes of transportation were properly regulated and regulations fully enforced there would not be same need for agreed charges as there is today.

Mr. Covert points out that C.N.R. in their brief suggests that present limitation of having the agreed charge expressed in cents per hundred pounds or such other unit as the P.T.C. may approve be done away with.

Witness says he thinks C.N.R. now want to change this recommendation. Witness himself thinks that above provision should not be done away with.

16291  
to  
16294

Witness explains that section of Transport Act dealing with agreed charge included provision that agreed charge be expressed in cents per 100 lbs. with the thought of having agreed charge expressed insofar as charges were concerned in the same form as the railroad tariff.

Witness thinks agreed charge should be filed in same way as competitive tariff in order to reduce delay. Then he does not say there should be any change but would like to have more flexibility.

16295

Witness thinks there is no more necessity for a notice under agreed charge than under competitive rate. They are both competitive rates. Apparently purpose of long notice is to allow shippers and other regulated carriers to come in and object.

16305

Witness thinks B.T.C. has sufficient staff to carry out provisions of the Railway Act as it is today - of course, every office including those of railways, always wants more staff, but thinks B.T.C. traffic department is efficiently administered.

16306

Would not like to suggest what duties of traffic department should be.



16306                    Witness thinks B.T.C. cannot know as much about  
to                    rate-making and needs of shippers as railways who have  
16307                    men in field - agrees these men think first of railway  
and how to get business for it.

16308                    Witness agrees B.T.C. must act as referee.

16309                    Witness would not in general increase duties of  
B.T.C. Generally would leave everything as it is today.  
says the present system has stood the test of time and  
the making of freight rates is where it belongs, with  
the railways. Says public can always complain.

16311                    Mr. Covert says as a matter of fact he might even  
go so far as to say the less people can find out about  
the railways, the easier it is for the railways.

                      Witness replies that railways have no such purpose.

16327                    Witness thinks it would take years to extend the  
number of classes and bring more commodity mileage  
scales within the classification.

16328                    Witness agrees that the limitation to a small  
number of classes does make it more difficult to bring  
about a proper relation between the rates of various  
classes of goods because you must have a large number of  
goods in each class. But does not see how you fit  
commodity mileage scales into classification without a  
dislocation of industry.

16331                    Witness says railways should be free to set com-  
to                    petitive rates because must act quickly - impossible  
16336                    for B.T.C. to approve competitive rates before put in  
but agrees might test whether compensatory later.

                      Thinks it is not necessary for B.T.C. to intercede  
unless someone makes a complaint.

                      Supposes B.T.C. could use same rule-of-thumb methods  
as railway. Would not want to think any representative  
of railway would knowingly publish competitive rates  
which he did not think he was going to make something  
out of.

16336                    Witness admits provinces may fear railways have not  
to                    watched competitive rates closely enough but says they  
16338                    have not proved this fault exists. Is a mass of com-  
petitive rates but each one is carefully considered  
individually. Does think there should be sufficient  
confidence in railway management that they would not  
deliberately go out and throw away money and make com-  
petitive rate lower than was necessary, or lower than  
what in their opinion would give them some return.

                      Witness says railway has never cut rates to meet trucks  
in hope that at some future time truck competition would  
be less keen and railway might push rates up.



16339  
to  
16342

Witness states railway studies every one of the various tests or rules-of-thumb with respect to each individual rate.

Says first must find out if there is any necessity for the rate. Do not apply tests just because a shipper says he would like a lower rate. When if need rate, apply tests. If course, do not apply the tests to all the points where the same tariff applies to a large number of points. Shipper can figure out details for self if he wishes..

Mr. Covert keeps asking how shipper in Alberta can find out details re competitive rates in Ontario - witness says all rates published and if necessary railway would show him the results.

16343

Witness does not think the possible loss on any one specific commodity could make any significant difference to the general rate level.



- 16348 to 16351 Witness agrees if rates below net-of-pocket costs other shippers are permitted. If any railways did this would need close supervision by B.T.C. But management would not make this mistake. Says some rates may have been non-compensatory during war, but B.P.T.B. would not allow any increase. Railway asked for increase in icing charges during war but denied.
- 16354 to 16355 Witness admits increase in Crow's Nest rates would be a great shock if there were a drop in price of wheat, but must face the situation as it exists today. Agrees there is risk of no crop and prairie farmer cannot move readily.
- Witness says average wheat farmer produces livestock, poultry and butter. Says there are more mixed farmers in Saskatchewan than there used to be, but some produce nothing but wheat.
- 16357 Admits generally speaking when wheat crop has been large and market good B.P.B. has a good year.
- Says railway is not asking that grain rate in Western Canada be as high as in U.S.
- Witness admits he said to Mr. MacPherson that he thought grain rate of 40 cents would not be unreasonable. Says it might be a shock to western economy, but depends entirely on price of wheat.
- If wheat \$2.00 doubling rate would not be a tremendous shock to western farmer having regard to increase in price that had taken place since 1899.
- 16360 Witness says could not raise livestock rates without protest from shippers in Alberta and railway could not afford any reduction on meats.
- 16365 Witness personally thinks livestock rates could be raised.
- 16366 Witness does not think marginal increases of 21% and 8% has caused any shift from cattle to hogs or to sheep.
- 16369 Witness says there was no complaint to B.T.C. by livestock industry after 21% and 8% increases.
- Mr. MacPherson for Saskatchewan points out there were protests at hearings of B.T.C. in West and before this Commission.
- 16371 Witness thinks livestock rates could certainly stand an increase without injury to anyone, but would still be serious protests from producers.



16372           Witness says rates on livestock are non-compensatory. Policy of railways is to keep them low in order to encourage the industry.

16262           says at time of reduction in livestock rates in  
to           in 1911 beef about 3 cents a pound on the hoof - 20 cents  
16273           today. Prices have gone up many times more than freight  
rate.

16375           Witness says he has never calculated what grain  
to           rates in Canada should be compared with those in U.S.  
16376           after taking into account wage levels, traffic densities  
etc. Might do it by ton-mile yields.

Witness thinks there is greater disparity between  
U.S. and Canada grain rates than between U.S. and  
Canada rates on other goods in western Canada.

16378           Mr. Covert points out that over a period of some  
years Canada net only exported a far greater volume of  
wheat percentages, that is 66 percent as compared  
with 141 for U.S., but Canada actually exported more  
than 100,000,000 bushels more than they have in the  
U.S.

16380           Witness says he has admitted that Canada is more  
dependent on export market than U.S., but that does not  
follow there is an unsatisfactory return.

Agrees with Commissioner Angus that help to in-  
dustry by way of price maintenance is easier if there  
is a big home market

16383           Witness thinks that no doubt in future will be a  
to           greater dependence on long-haul traffic, but does not  
16384           know if will see any greater tendency for long-haul  
traffic in future than have seen in last 10 or 15 years.  
says this is one of reasons for asking that Crow's Nest  
be taken out of statute.

Witness says it was not because of the competition  
of the unregulated carrier that railway suggested that  
the statutory provision of the grain rates be removed.

16384           Witness agrees that Crow's Nest is big chunk of  
long-haul traffic that no matter what happens to the  
cost there can be no increase on it. And while it is  
long haul traffic, which the railways generally have the  
most monopoly on, and if could bring this change about  
it would ensure railway's position in the long-haul  
field certainly to a greater extent.

Witness says as one will admit rates charged in  
1899 are reasonable rates for 1950.

Witness points out if short haul rates get too high



16384 will ask it if/so it for railway to meet the com-  
(cont'd) petition in the short haul field.

16390 Witness does not know whether B.T.C. should give  
some effect to the fact that the West is a wheat economy  
in setting grain rate, but would think not.

16392 Says he has not considered whether C.P.R. would  
to ask B.T.C. to increase grain rate generally or all at  
16393 once - probably would submit cost study.

Mr. Evans says B.T.C. would have to take economic  
conditions into consideration under value of service,  
but objects to economic planning where rate is deter-  
mined solely with relation to the ability of an industry  
to bear that rate.

16395 Mr. Evans says in one livestock case B.T.C. said  
to it was not an arbiter of industrial policy, but dealt  
16396 with each case on its merits.

16397 Witness agrees C.P.R. not compelled to carry  
western livestock at an unreasonably low rate.

16398 Witness thinks B.T.C. should not take something  
into consideration with respect to grain rates that  
should not be considered with respect to other rates -  
should deal with all on same basis.

When asked what railway would do if wheat prices  
suddenly dropped - would C.P.R. oppose application for  
lowering the rate - witness says freight rates can't  
fluctuate with commodity prices, but if any general  
downward trend in commodity prices other things might  
generally go down and general level of freight rates  
down too. Says railways have difficulty getting freight  
rates up as fast as prices but everyone wants rates  
to come down just as fast.

16400 Witness thinks could not make grain rates on any  
to different principle than other rates, otherwise would  
16403 have trouble. Hence would object to statute saying  
grain rates should barely cover out-of-pocket cost.  
could have same request for bacon and eggs being  
exported from West.

16404 Remits submitting cost data on wheat is rather  
different treatment from other rates e.g., livestock,  
but this only because grain rates not remunerative.  
could make similar study if livestock rates in dispute.

Mr. Evans would agree to B.T.C. suspending any  
increase in Crow's Nest rates until these studies were  
completed.

16407 Witness really has no idea what rate railway  
would ask for on grain - would depend on cost study.



- 16408           Witness thinks would be plenty of time to develop the cost study after statute repealed - is no need to tell farmer in advance what increase is likely to be before ask Parliament to repeal statute.
- 16409           Says then farmer needs no greater protection than B.T.C.
- 16413           Witness says can't get true equalization between East and West if one class of rates on a substantial movement of freight is on 1899 basis while rest on 1930.
- 16415           Also says if equalized rates by raising Eastern one might drive more business to trucks and water lines.
- 16416           Witness says apart from railway revenues is no need for difference in treatment between distributing rates in West and town tariffs in the East. The same conditions do not prevail in the East as prevailed at the time town tariff rates were established.
- Witness says cannot have true equalization unless Crow's Nest rates are taken out of the statute and are placed in hands of N.Y.C., and unless assumed mileage disappears, and unless there are some amendments to M.F.R.A.
- 16417           Witness says can approach equalization on basis of equality of scales all across country or on the basis of regional financial requirements.
- 16418           Witness thinks could never have complete equalization without dislocation of industry, but could have equalization of certain things.
- 16418           Discussion re effect of "over the same line or  
to               route" and "under similar conditions and circumstances"  
16420           in its effect on equalization - not very conclusive because witness refuses to interpret the Railway Act.
- 16421           Witness explains constructive mileage Vancouver to  
to               Vancouver and Calgary to Vancouver applies only on grain  
16422           - true constructive mileage is on terminal rates. Former would not necessarily disappear if Crow's Nest put under B.T.C.
- 16423           Witness says the seed grain, pure bred livestock and exhibition rate was originally on basis of about half normal rate - raised it to normal rate and then by 21% and 8%. Does not agree these rates should have been raised a little at a time.
- 16423           Witness agrees these rates were put in to encourage  
to               industry and were in effect a long time. Thinks there  
16425           would have been objection no matter how they were increased. No serious hardship on any individual because the movement not heavy and no individual uses the rates in any volume. Thinks no special provision needed re expiry date on these rates.



16425a      Witness says an export rates railway keeps Vancouver and Seattle on a parity. Railway's policy is to build up Canadian ports and keep traffic from going through U.S.

16426      Export rates to Canadian ports are lower than they should be in order to preserve this differential.

Witness would not say these export rates through St. John or Halifax are all-comparative in the north, but St. John and St. John rates are.

16427      Witness says U.S.R. has no interest in American routes which might conflict with Canadian ones.  
to  
16428      American roads set American rates and Canadian roads apply them to Canadian points. In a competitive rate really.

Witness says of course rate from St. John to Vancouver and Seattle for export is not the same as to Portland or Boston. That witness has been saying applied only to Montreal and West.

16430      Witness thinks should be no provision in railway act requiring U.S.R. to consider economic and geographical advantages - if did it for one group of shippers would have to do it for all - would be impossible for railway and U.S.R. to administer. Unless railways do consider economic disadvantages when it is in their interest to do so.

16436      Says U.S.R. is in same position as U.S.R. in this regard.

16438      Witness says railways have mitigated, while they cannot eliminate, the geographic disadvantage of distance from markets.

Witness agrees railways, bearing in mind what the traffic will bear, have also on many occasions mitigated the results of distance from markets. And from a business point of view that is the only way it can be left, in the hands of the railways, and if any other method of rate-making were imposed on railways that things would become too rigid and react to the disadvantage of Canada.

16440      Witness agrees subject discrimination under railway act is only that created by one railway as between two points on its own line.

W. Smith for U.S. refers to case of *Yarnall v. the United States*, reported in United States Supreme Court advance opinions, vol 93, no. 3 at p. 233 where stated as follows:

"Carriers' rate structures are not designed merely to favor the revenues of producers



16440 and carriers, but to safeguard consumer  
(over 100) interests as well by equalizing access  
to markets."

16443 Mr. Covert says that Duncan Report at page 26  
to states as follows:  
16448

"The railway administration, in giving evidence before us, agreed that long distance traffic, particularly heavy traffic, had been seriously prejudiced by the operation of the horizontal increase."

Witness says he does not think long distance traffic is prejudiced by the operation of horizontal increase.

16448A

Admits it is felt apparently today that the railways in U.S. do recognize that long haul traffic does need to be treated differently, because they often suggest these exceptions.

Don't say that long distance from market suffers but admits his transportation costs go up by greater amount. Says he is better off if the price has gone up by a greater percentage than transportation charges.

16449

Witness thinks to give any special consideration to long haul traffic would not be fair to industry near the point of consumption.

Witness says railway ran into some trouble when they removed Mountain Differential - had complaints from some people in U.S. whose rates were reduced less by removal of Mountain Differential than someone else's were reduced.

16450

to  
16450 Witness says as far as Canada is concerned U.S. or its predecessors have not created any exceptions to horizontal increase.

Says the only time it was done, to any extent at least, was in 1917 pursuant to Order-in-Council. At that time no consideration whatever was given to the matter from the point of view of whether the increase would be horizontal or otherwise. Simply adopted in Canada the pattern of the war-time award in the U.S.

16458

to  
16461 Discussion between witness and Mr. Covert re practicality of railways obtaining interim increase quickly for definite period of say six months to a year, to enable railways to obtain traffic statistics and to ascertain the effect this horizontal increase might have on long haul traffic of basic commodities. Discussion to take place when railways go back to U.S. at end of six months to make increase permanent.

Witness does not think this would work.



16462  
to  
16463

Mr. Covert refers to evidence in 21<sup>st</sup> case and statements of Chief Commissioner at Pages 46 and 65, where he said in part:-

"One difficulty with respect to the adoption of a varying or maximum increase is apparent, namely the lack of reliable traffic statistics from which to determine the additional revenue which would accrue from flat or maximum increases on particular commodities."

"Further there is not on the record anything to enable any determination concerning the commodities and sections of the country, and even the individual rates which could best bear the burden of an increase."

Mr. Covert asks witness if he thinks this indicates something lacking on part of B.T.C. that they do not have information of this kind.

Witness replies that he does not know how B.T.C. could be expected to have traffic statistics that would enable them to deal with this type of subject.

16463  
to  
16464

Mr. Covert refers to case before I.C.C., Ex Parte 162, 266 I.C.C. Reports at page 537, and suggests that this case would indicate that I.C.C. does have information of this type.

Mr. O'Donnell, for C.N.W., points out that in this case interested parties themselves appeared and supplied information.

Witness suggests that I.C.C. and U.S. railways have more detailed information than the B.T.C. and Canadian railways.

16467

Witness says that the decision in Ex Parte 162 made exceptions in that they modified the percentage from 25% down as low as 15%, but that was merely an exception to the percentage increase, it was still a horizontal increase of a lesser amount which is entirely separate from horizontal with a maxima.

Thinks I.C.C. in making this decision felt it was important and would directly effect production and distribution of industry. B.T.C. would take those features and facts into consideration.

16468

Admits increase of 20 or 25% increase in Canada might effect industry if a lot of other increases had preceded it.

16469

Witness regards as exceptions only those cases where they fix a maxima in cents per hundred pounds.

16470

Thinks that in 21<sup>st</sup> case the door was left open to anyone who thought they were adversely affected to come



in later and complain and thinks this is only proper way to deal with matter.

Thinks complaints would be lodged mainly on ground of affecting movement of traffic.

16474

Witness emphasizes that if men in Saint John can market in Toronto before rate increase he can still market today.

16475

to

16481

Mr. Covert turning to the question of industrial location refers to Appendix B on page 62 of Alberta's Brief, on Industrial Location, where there is a copy of a letter from Mr. Evans, General Counsel of C.P.R. dealing with proposed agreed charge between C.N.R. and C.P.R. and the McColl-Frontenac Oil Co. on the movement of petroleum products from Ft. William to Saskatchewan.

Mr. Covert suggests to witness that one of the objects of proposed agreed charge listed in that letter avoiding the construction of a refinery by McColl-Frontenac at a point in the Prairies which would result in the railways receiving only low revenues on inbound crude and the probability of losing the outbound traffic to truck competition.

Mr. Covert contends that whether or not this was one of considerations for granting the agreed charge the railways were evidently of opinion it was a proper ground.

Witness would not agree. Says you have to look at conditions as they were when this agreed charge was made. Large oil deposits in Alberta had not yet been discovered. If they had, this agreed charge would probably never have been made. In light of conditions at that time it was good business - today might be different.

Witness admits difference in freight rates could possibly determine the location of a plant.

Witness points out that at time U.S. crude was coming into Canada and Canadian railways were getting short haul and low revenue from it. This agreed charge allowed them a long haul and opportunity to compete with U.S. crude.

Thinks McColl-Frontenac initiated suggestion of this agreed charge.

16483

Mr. Covert suggests that this agreed charge which railways considered good business deprived Saskatchewan of having refinery built there.

Witness points out refinery would not have been built for purpose of refining Canadian oil.



16481  
to  
16484

Mr. O'Donnell for C.N.R. refers to judgment of B.T.C. in connection with this agreed charge where it refers to criticism of this agreed charge and points out that agreement can be cancelled by either party on three months' notice and then McCall-Frontenac can go ahead and erect refinery if they liked.

Chairman says point is ought the B.T.C. in such a case say 'No, we refuse you the right of this agreed charge in order to compel you to erect a refinery'.

16485

Mr. Frewley for Alberta says they want freight rates that will not discourage location of industry.

16488

Mr. Covert suggests that there was a possibility that the railways have a great power to affect industrial location.

16489

Mr. Evans contends there is not slightest suggestion railways have power, they cannot exercise power; have got to have an agreement with industry and the approval of the B.T.C.

16490

Chairman says it would stand to reason that an agreed charge might in some cases be the cause of a shipper not constructing a plant nearer his market.

Mr. O'Donnell points out that whole situation must be put before B.T.C. and approved by B.T.C. under procedure provided by Transport Act.

Chairman says power not in hands of railways you have to have co-operation of shipper and approval of B.T.C.

16491

Witness maintains railways do not go out and make agreed charges unjust to industry and to Canada, the interests of everyone are weighed.

16492

Chairman considers it of interest to what extent B.T.C. might refuse agreed charge because they think it better to maintain higher charge and force company to erect plant nearer market.

16493  
to  
16495

Mr. Covert refers to Duncan Report, page 24:

Board under the Railway Act has no profit and loss responsibility . . . . .  
The Board has no power to regulate tolls, for the purpose of equalizing cost of production, or geographic, or climatic, or economic conditions . . . . .  
what a railway administration might concede in the exercise of its judgment on what was good business or might ultimately be good business for itself, seemed to us to be demanded as a matter of right by the trade so that his own business might



be profitably developed whether operations of railway were remunerative or not . . . . . Even if there were no privately owned railway company . . . . . we cannot conceive of a national system being efficiently administered on such a principle as that.

And then goes on to say:

"On the other hand, from a public point of view in return for the statutory and other public privileges which the railway companies enjoy, it may not be unreasonable that there should be a responsible review of their polity (as interpreted in their rate structure) in its relation to the natural basic products of the country, and the development of these products and associated enterprises".

16496

Witness said rates should be made by railways subject complaint to the board and the decision of Board as to justification of railways action. B.T.C. cannot be expected to go out and initiate rates.

16497

Witness says when railway makes rate from Paris to Vancouver on cement to compete with English Cement, railway and shipper are jointly developing traffic for Canada and Canadian railways and assisting Canada's industry in the process.

16499  
to  
16499A

In general terms witness thinks it perfectly all right for railways to fix rates that encourage Canadian industry in competition with U.S. industry.

Agrees that railways by fixing rates can have great effect on industrial location in Canada to the extent that railways help industry to reach faraway markets. Does not think anything railways might do in this connection would be prejudicial to economy of Canada, in fact might help it.

Says there always will be some conflict of interest between shipper and railway.

Witness thinks no one desires legislation that favours intra-provincial traffic instead of inter-provincial traffic.

16500  
to  
16501

Mr. Covert now goes on to interline rates.

Witness says any part of the C.P.R. that is composed of leased or contract lines is all treated as one railway.



Quebec Central and Dominion Atlantic are only ones where they do not have single line rates. Is not sure about E. & N. on Vancouver Island.

16502

On subject of international rates, witness admits that one reason C.P.R. urged similar increases in Canada and U.S. is market competition. Considers other reasons continuity of through rates and equality of rates via all routes.

16503

Says views of I.C.C. and B.T.C. identical with reference to international rates.

16509

Witness does not think there would be any advantage in joint sittings of members of B.T.C. and I.C.C. on questions of joint through international rates.

16511

Witness agrees situation with regard to joint through international rates in the West is governed by U.C. roads in so far as you would never get them to agree to a basis of rates from origins in Canada to destinations in U.S. on a basis lower than is applicable on same commodity in U.S.

16519

to  
16520

Witness says on few occasions shippers have come in and asked for increase in case of international rates. This is because it is much better for Canadian shipper to pay a higher international rate than to have through rates cancelled and pay still higher rate.

16522

to  
16523

Witness says might have international rate without competition. e.g., asbestos, nickel.

16524

It is opinion of witness that whether or not there is competition must increase all international rates same way.

16526

On question of long haul short haul Mr. Covert queries witness about feeling of U.S. roads with regard to all that has happened since the changes have been made in law in U.C. with respect to transcontinental rates or this fourth section relief.

Witness replies U.S. roads opposed to it as much as Canadian railways but have to do it.

16527

Witness does not think there should be a burden on the railways to satisfy B.T.C. from time to time that transcontinental rates are not unnecessarily low, that they are compensatory and that there is actual or potential competition. If anyone is hurt he has the right of complaint.



16528

Witness says railways satisfy themselves rates not unnecessarily low, that they are compensatory and that there is real or potential competition and satisfy B.T.C. on complaint.

16529

to

16531

On question of M.F.R.A. Mr. Covert suggests Maritimes now allege that by truck competition in Ontario and Quebec many of the advantages of M.F.R.A. have been wiped out.

Witness considers that situation could not be rectified unless competitive modes of transportation raised their rates. If only railway raised its rates in Ontario and Quebec the Maritime shipper would be no better off, because trucks in Ontario and Quebec would still give shippers in Ontario and Quebec advantage of low rates.

16533

to

16434

As to increasing the subsidy witness says that is entirely a matter for the government to determine. Says railways' revenue should not be reduced from the Maritimes because they had to reduce rates in Quebec to meet truck competition.

Subsidy should be direct to shipper. Witness says railway does not like present manner of paying subsidy, but are not suggesting any change in present M.F.R.A.

16536

Mr. Evans states that C.P.R. put in their Brief the matters that would have to be looked at when equalization or before equalization becomes a reality, but did not consider this Commission would be interested in their views as to language of the amendment to M.F.R.A.

16567

Witness thinks any equalization scheme to preserve the revenues of the carriers is bound to hurt someone, but if you are going to have true equalization it is something that industry will have to stand.

16568

With complete equalization in Canada, you would in fact, more or less, have one rate territory, and in that case witness admits destruction of market pattern might take place.

16539

According to C.P.R. plan, equalization would apply to class rates, commodity rates, and the special rates related to commodity mileage rates, but no plan of equalization could apply to competitive rates or special rates. You cannot equalize competitive rates according to witness.

16540

Mr. Evans says C.P.R. equalization scheme did not depend on "under substantially similar circumstances and conditions". Their proposal so far as it deals with class rates and commodity mileage rates is to equalize regardless of different conditions east and west.



16544

Mr. Evans says Section 314 of Railway Act is a discrimination section and until you have two shippers shipping to a common market words "same line or route" or any other words in that section have no relation to the subject. In interpreting "same line or route" you have to read it as simply meaning where two people are trying to get into the same market with goods over the same line or the same route, then the section applies.

16545

Chairman points out "just and reasonable" in some case may call for equalization and in some cases not.

Mr. Evans agrees and says that is for Board to decide.

16546

Witness does not think it should be function of the B.T.C. to investigate whether or not market patterns are being destroyed or disturbed when considering question of general increases. If rates all go up alike it preserves the market pattern.

16548

Thinks arbitrary over Montreal should not be maintained.

16551

to  
16552

Witness admits Crow's Nest, livestock rates, et and east grain rates, rates on coal from Alberta to Ontario are non-compensatory. Does not know of any others that are non-compensatory.

16554

to  
16555

Admits hardly any traffic carried at standard mileage class rates, but says they are just and reasonable subject to increase they have applied for.

Witness thinks traffic would not move if standard mileage class rates applied to all products.

16556

to  
16561

Long discussion between Mr. Covert and witness as to test to determine "just and reasonable". Much hedging by witness.

16562

Witness admits other rates might be lower if it were not for situation with regard to non-compensatory rates, but won't admit other rates unjust and reasonable.

16563

Mr. Evans says if shipper can show he cannot market his product, that may show rates have become unjust and unreasonable.

Chairman tells Mr. Frawley they are prepared to hear from consumer. Finds that in U.S. they do hear from consumers.

16566

to  
16567

Mr. Covert refers to case of Granby Consolidated Mining, Smelting and Power Co. They complained their rates were too high, C.P.R. did not agree. They went to B.T.C. and Board dismissed their application for particulars. B.T.C. said in this case:



"The Board in dealing with the reasonableness of rates in the many cases dealt with, has never found it possible to lay down a precise formula whereby the reasonableness of a rate could be accurately determined".

16568

Mr. Covert believes application for particulars was dismissed on the ground that it would be a radical departure from the cost of service principle".

16570

to

16572

Witness admits possibility that a rate may be perfectly satisfactory to the railway and the shipper because the shipper can pass it on to the consumer.

Thinks there are many places where consumer has complained - can give no specific cases.

Says there complaints from a consuming area that rates in that area are too high.

Commissioner Innis asks if there are complaints from labour because of economies forced on shippers because they were refused rate reductions. Witness replies railway do not consider this in their discussions with shipper.

Witness says there are a lot of shippers who make complaints about rates not only in their own interest but also in the consumers'. e.g., apple shippers of B.C.

16574

Witness says when there is a large crop of apples railway reduces rates, when small crop they restore them to normal basis.

Mr. Hrewley says his application about having freight rates reduced on farm implements from U.S. is purely a consumer application.

16575

Witness says that apart from competition of providing services there is no competition between C.P.R. and C.N.R.

16576

to

16580

Says application for 30% increase was agreed upon by all the railways on basis of C.P.R.'s requirements. They all agreed it should be a horizontal increase with no exceptions.

There was no formal discussion with industry before application made although the usual notices were sent out on day application made.

16580

Witness says reason for different treatment of coal and coke was that it has always been treated separately in both Canada and U.S. and thinks it makes a better increase to increase it so much a ton.



16583

Witness says there is no comparison between situation in U.S. and Canada as far as treatment of horizontal rates is concerned although in dealing with Crow's Nest rates he felt a comparison could be made between Canada and U.S.

16585

Witness says rate levels higher in Western U.S. than Eastern U.S.

Mr. Evans asks witness what significance that has on whether there are or are not through class rates between Western Canada and Western U.S.

Witness explains that rates in Western U.S. are so high that if you take their rates to the boundary and add even our standard mileage rates north of the boundary, you get a lower rate for the international movement than the rate in the U.S. for the same distance.

Mr. Evans refers to Mr. Covert's examination of witness re Ex Parte 152, when Mr. Covert indicated that there were traffic statistics available here, among them he indicated average length of haul and tonnage commodities. Refers to Manitoba brief to show that these figures are available here.

Mr. Evans considers that point is really that when you got these statistics you would not have what you need to determine this question as to the effect of a horizontal or a maximum increase.

16586

Commissioner Innis queries Mr. Evans as to what extent American rate practice or regulation precludes regulation in Canada.

Mr. Evans thinks there can be no doubt that situation with regard to international rates is greatly affected by power, strength and economy of U.S. Thinks it must be true that a large economy next door to a smaller one must tend to influence the smaller to a greater extent than the reverse. No one has ever prepared a memorandum on the subject to his knowledge.



16582-90

Mr. Evans on behalf of the C.P.R. points out their recommendation with respect to amending Section 3, subsection (2), paragraph (c) of the Maritime Freight Rates Act.

16593

Witness for the C.P.R., Mr. S. J. W. Liddy, Exhibit 120 filed, being Apportionment of Railway Operating Revenues and Railway Operating Expenses between Passenger Services and Freight Services for 1948. In 1948 only 32% of railway operating expenses are directly separable in the Company's accounts between the two classes of service. The balance of 68% was of a nature incurred for the Company's rail services in general, and could only be apportioned upon an arbitrary and theoretical basis.

16603

C.P.R. submits that the problem of disentangling joint costs is one of great magnitude and complexity, - an allocation of many costs must be made on the most arbitrary basis. Claims that accountants and economists on numerous occasions have stated that railway operations do not lend themselves to cost accounting.

16605

Refers to Exhibit 181 - Details of Investments in Railway Property as of January 1st, 1948 (C.P.R.).

16613

The uniform system of accounts for steam railways as prescribed by the I.C.C. does not deal with the subject of segregation between freight and passenger service. It is done by a rule of the I.C.C. Under the I.C.C. practice they ask the carriers to keep separate accounts, separate books for the maintenance of their road, and in a large terminal it might be found that there would be three or four different kinds of yards, a passenger yard, a freight yard, and perhaps a common yard. Each one of these cases would have separate books. The I.C.C. ask that the expenses that are solely related to passenger in respect say of the maintenance of yards would be put in a column solely related to passenger.

16619

Witness points out that the primary accounts kept by the C.P.R. while not being separable between railway and passenger, are useful for management control purposes in respect of labour and material items.

16626

Witness comments on cost of service principle from a practical standpoint, and claims that it is impossible to apply. The problem of disentangling joint costs is one of great magnitude and complexity. Any attempt at cost accounting would be a most cumbersome and expensive procedure and would inevitably involve the allocation of so many items on a purely arbitrary basis as to be of little, if any, value.



16628

Refers to the figure of \$1,001,001,000 representing the depreciated investment base of the C.P.R. as at December 31st, 1947, as being the gross investment on the railway property, and railway working capital less the book depreciation reserves.

16628-32

Witness is questioned as to what happens when one railway buys another railway or acquires it. Are the assets taken in at the value they stand in the books of the railway that is acquired or bought, or are they calculated on the basis of the price that is paid? The witness says that in the case of the C.P.R. these figures would be the accounts if they acquired a line outright, and they had the accounts for it, but that they have had no such experience to date. In the case of the United States railways, it is the cost of the investment of the first one to devote that property to transportation service that goes into the books, and then they adjust their balance sheet between that cost and the purchase price.

16631-32

Witness describes how the figure of \$1,001,000,000 is arrived at.

16631

In the case of the C.P.R. the proportion of gross investment in railway property which is depreciable amounted to 55.9% and the balance, of 44.1%, was non-depreciable.

An item in which the value has increased or which is appreciable remains in the books at its original historical cost.

16638

C.P.R. for inland steamships commenced depreciation accounting January 1st, 1934; for rolling stock, January 1st, 1940; and for road property, July 1st, 1942.

16640

Mr. Evans on behalf of the C.P.R. points out that the cases in the United States make it quite clear that the onus lies on him who suggests that the investment is not prudent to establish that it is not prudent, and that prima facie evidence of a rate base is regularly and usually accepted from the books of the company.

16646

Chairman refers to the C.P.R. brief where it is submitted that in order that rates be just and reasonable to the railway the general level of rates should be such as to provide an equitable return on the investment in railway property used in transportation service.

16647

C.P.R. asks the Commission to hold that the proper method of establishing a rate base is an equitable return on the investment in railway property.



16661

Mr. Evans comments on the question of considering Other Income when dealing with railway rates, and suggests that it is inevitable that this Commission has to know where that leads in the matter of railway rates, because if you take in this Other Income without going for a return on the investment represented by the assets that produce that Other Income, then you are going to distort the railway rates downward, and provide no return to the company on the investment in those properties.

16661

Mr. Evans refers to the argument of Mr. A. J. C. Priest in the 21 Percent Case, page 3959 to 4035, which contains the law presented to the B.T.C. by Mr. Priest dealing with the whole issue as far as rate base and rate of return is concerned.

16662

Mr. Liddy claims that Canadian railways hold a considerable degree of uniformity in accounting, and he believes that the obstacles to complete uniformity in accounting and statistical procedure could be overcome in a reasonable time or largely overcome to the extent warranted.

16662

Thus the first step is to adopt a uniform classification suitable for Canadian railways. Believes the classification should be designed to show the financial result of conducting railway transportation, such as is prescribed for United States railways by the I.C.C. Believes Canadian classification should follow the same principles of accounting as are embodied in the I.C.C. classification, and that depreciation accounting should be applied to the same classes of property in Canada as are prescribed for United States carriers. Believes the details of the classification should be designed to permit ready comparisons of significant primary accounts being made between Canadian and United States railroads. Believes a more simple classification of accounts should be attempted for use in Canada than presently prevails for Class 1 carriers in the United States.

16664

Considers I.C.C. practice of requiring carriers to keep segregated freight and passenger accounts is an unnecessary requirement for Canadian railways. Believes one single classification of accounts for Canada should be prescribed for all Canadian railways rather than the separate or condensed classifications which are in effect in the smaller railways in the United States.

16666

Urges that the principles of accounting of the I.C.C. classification be not departed from if at all possible.

16669

Submits that if this Commission feels that it should make any recommendation as to the method of depreciation to be followed by Canadian railways, it should recommend



either that the user method be adopted or that any Canadian railway should have the option of adopting that method.

16671

Refers to a proposed Order of the I.C.C. which has been circulated to the railroads for consideration, (Under date of September, 1945), indicating the depreciation charges for ties, rails and other track material might be based either on the straight line method or on some basis made to correspond with units of use rather than time.

16673

Mr. Liddy summarizes his views with regard to uniform classification as follows:

"I believe the Canadian classification should, first, be designed for conditions in Canada; secondly, it should be such as to attain uniformity in accounting to the extent possible for railway transportation services; and, thirdly, it should permit ready comparisons to be made with similar operations existing in the United States."

"I would think, subject to the recommendations of this Commission on the broad principles to be followed, that the classification should be developed under the authority of the Board of Transport Commissioners."

Claims that it needs the combined experience of railway officers and the experience of the regulatory tribunal to decide on what should or should not go into this uniform classification.

16674

Points out that there is a separate classification in the United States for express companies, entitled "Uniform System of Accounts for Express Companies, Prescribed by the I.C.C. in accordance with section 20 of the Act to Regulate Commerce." There is also a separate classification for communication services in the United States.

16675

Canadian Pacific Express Company files a separate annual report with the B.T.C. and D.B.S.

16676

Witness does not think it is either necessary or desirable to integrate in the railway accounts of the activities of the express company and the communications department of the C.P.R.

16677

Witness takes this position mainly because integration of these services in the railway accounts would only present unnecessary complications, and because telegraph rates and express rates bear no necessary relationship to freight and passenger rates.



Present arrangement is that the Express Company pays to the railway company the amount of its net revenue from express traffic for the privilege of having its express carried on the railway. If the entire operations of the express company were integrated with the railway company's accounts, it would become necessary, in determining adjustments in the level of either express rates or freight and passenger rates, to separate these in some way, as they are now separated. In the result, nothing would be gained by integration of these accounts, and a lot of new complications would come into being.

16684

Refers to Exhibit 187 - Photostatic copy of proposed order of Interstate Commerce Commission re straight line and user depreciation.

16686

C.P.R. submits that the user method, by directly relating the depreciation charge to the use made of the property and equipment, is a systematic and rational method of allocation.

16687-88

Refers to the I.C.C. report (No. 15100) dealing with depreciation charges of steam railroad companies.

16696-97-98

Reference is made to the 21% Freight Rates Case and the evidence given by various accounting experts on behalf of the C.P.R. on the question of depreciation and the merits of the user method.

16700

C.P.R. submits that the evidence in the two rates cases (21% and 23%) strongly supports the user basis and that no effective attack was made upon it.

16721-02

C.P.R. submits that the 'user' depreciation method has substantial advantages not only to the railway company but also to the users of railway service and to the railway's employees. To the man who pays the freight, the 'user' method ensures that the element of depreciation cost remains proportionately the same regardless of the business cycle. To the railway workers it tends towards stabilization of employment, as opposed, for instance, to the 'straight-line' method which requires the same dollar charge in a year of low business volume as in a year of high business volume and thus inclines to curtail the amount of maintenance work which might otherwise be done during depressed traffic years when prices are relatively low.

In the opinion of the C.P.R., any statutory direction prescribing a uniform system of accounts should be exceedingly general in character in order to avoid hampering and inhibiting the Board in the exercise of its administrative functions. Over the years there has been a constantly



expanding development of information and the way ought to be left open to the railways to avail themselves currently of such developments, under the supervision of the Board.

C.P.R. submits that the railways ought to be given an option. If there is anything prescribed, it ought to be the user basis. If there is to be nothing prescribed, the railways ought to have that option of using the user as against the straight line method if it is left to them.

16736

C.P.R. in the first place say that any statutory direction prescribing a uniform system of accounts should be exceedingly general in character in order to avoid hampering and inhibiting the Board in the exercise of its administrative functions. Secondly they say that over the years there has been a constantly expanding development of information and the way ought to be left open to the railways to avail themselves currently of such developments under the supervision of the B.T.C.

Vol 86

16716-17

Mr. Liddy submits that any method of depreciation that does not recognize the considerable fluctuations that exist in railway traffic, must inevitably have a serious drawback. A rigid method of allocation of depreciation as between the years means that in good times less depreciation will be allocated per unit of traffic than would be the case under average traffic conditions. In his view the ideal method is to so allocate the depreciation provisions as between years to effect as even a burden per unit of traffic as is possible, and consistent with sound accounting practices.

Mr. Liddy summarizes the advantages to the railway company and to the users of the user basis of depreciation as follows:

As to the advantages to the railway company, these are -

1. the accounts being realistically stated as between months and as between years more nearly in relation to the volume of business being done, is an aid to managerial direction and control;
2. the flexibility of user depreciation method places the provision for depreciation on a parity with other items of expense which go up and down with the traffic moving;
3. in periods of hard times it is not always desirable, or even possible, to recover from users the same gross amount of depreciation as in good years.

From the management point of view, the user depreciation method is desirable as it is an advance over other methods.



From the point of view of the users of the service, the advantages which exist for the railway will react to the advantage of the users.

Reference is made to the user method as far as the railway is concerned as regards income tax, and Mr. Evans points out that the income tax is based on what is known as the diminishing balance basis commencing with the year 1950.

16721

Mr. Liddy claims that when the business level is good and railway traffic is moving in volume, that it is only equitable that individual railway users should contribute equally as much per unit of traffic as would individual railway users contribute during periods of depression per unit of traffic.

He believes the flexibility of the user basis tends to stabilize railway employment. In poor times, railway management is hard pressed to make economies in the use of labour and material. To the extent that depreciation charges are lighter during low traffic years, there will be less pressure on management to reduce expenses by curtailing employment. It is a distinct economic advantage as the need for employment is highest during subnormal periods and it is during such periods that the greatest volume of maintenance work can be done at the lowest cost.

16722

C.P.R. submits that with regard to the segregation of assets between rail and non-rail operations, it keeps its accounts in such a way as to enable an adequate segregation to be made except in the case of working capital, which must always be a matter of judgment.

16724

It is the view of the C.P.R. that investments in non-railway properties should not be included in the investment base for railway transportation results.

A Canadian railway classification for the purpose of uniformity of accounts should be confined to showing the result of transporting goods and passengers on the facilities of the carriers which are required for the purpose of providing railway transportation service. It is, therefore, the view of the C.P.R. that this principle must, as a matter of course, apply to the railway investment account as well as the railway income account.

16725

The witness suggests that the problem is reduced to its simplest terms if there is any readily available form on the one hand the income result which is derived solely from railway transportation service, and, on the other hand, the amount of the investment in facilities which are used to provide that service.



Witness claims there would be complications if the non-transportation income and investment were included in the railway account. Such a procedure would impede the progress of rate cases. Witness also suggests that the question of whether non-transportation endeavours are profitable or not should have no bearing on the fixing of railway rates.

16729

Telegraph and wire services as are required in the operation of the C.P.R. are paid for by the railway at cost, and the amounts so paid are duly reflected in railway operating expenses.

C.P.R. submission dealing with the Express Company states as follows:

"This is by far the major operation of the Express Company. Its subsidiary operations include the sale of money orders and other financial paper. It also has some income from investments. The net income from the sale of commercial paper is taken as Other Income of the Canadian Pacific. The income from investments is the only real net income of the Express Company."

16733

Refers to I.C.C. practice and the fact that on their railway property they made a valuation and have kept that up to date on a reproduction cost basis until about two years ago. For many years they allowed a rate of return based on an average of the depreciated cost basis and the reproduction cost less depreciation, and up until Ex Parte 166 that was the basis on which the I.C.C. went. In a long series of cases which followed *Smyth v. Ames*, the doctrine of reproduction cost was pretty well tossed overboard.

Mr. Evans refers to the argument of Mr. Priest in the 20% Case that by and large the principle is a depreciated investment base or a depreciated historical cost base. This may have its short-comings. Some people think it has; some people think it should be reproduction cost; other people think that the difficulty of getting a reproduction cost is so great as to remove any practical value from that sort of thing.

16777

In the case of the C.P.R., the proportion of capital stock to long term debt works out to a ratio of 54 to 46.

16779

Refers to the fact that certain stocks were sold at a discount in the early days of the C.P.R. as follows:  
1883 - a stock issue which was sold at a discount of \$15,000,000 (par principal \$20,000,000);  
1883 - a stock issue which was sold at a discount of \$14,000,000 (par principal \$20,000,000);



1884 - a stock issue which was sold at a discount of \$5,000,000 (per principal \$10,000,000);

From 1903 on, in whatever year there were new issues of stock, they were sold at premiums.

16793

Mr. Liddy is asked to comment on the question of increase in terminal costs as compared with the increase of line haul costs, and the suggestion made by Mr. Moffat, witness for the Province of Manitoba, who claimed that terminal costs have increased more sharply than line haul costs.

16794

Mr. Liddy says that on making an analysis of the available information, he finds no evidence supporting Mr. Moffat's suggestion. From the results of the analysis made the fluctuations in terminal costs and line haul costs appear to have been very the same over the period under study.

16809

Mr. Liddy does not agree that one of the major difficulties which the railways have been suffering in the last year or so is due to the decline in passenger traffic, and the tremendous loss that the railways incur as a result of that decline.

16814

He believes that the passenger service today, that is for the year 1948 (last figure available) has not been a burden on freight in total.

He goes on to point out that while it has not contributed very much to joint or common expenses, it has not been a burden. It has paid all its direct expenses.

16832

Mr. Liddy does not agree that the interest which the C.P.R. receives from the Toronto Terminals Railway Company on the bonds which it holds in that company are properly credited to its rail income rather than to its other income.

16840

C.P.R. tables figures showing the extent to which labour is responsible for expenses of operation.

1940 - 58.9%; 1941 - 55.35%; 1942 - 54.71%;  
1943 - 51.68%; 1944 - 52.43%; 1945 - 51.76%;  
1946 - 55.29%; 1947 - 54.3%; 1948 - 55.51%;  
1949 - 55.41%.

Payroll in percentage of operating revenue was as follows:

1940 - 43.80%; 1941 - 39.47%; 1942 - 38.85%;  
1943 - 37.39%; 1944 - 41.43%; 1945 - 42.36%;  
1946 - 47.83%; 1947 - 47.25%; 1948 - 43.96%;  
1949 - 50.39%.

*Vol 87*



16841

Contains statement showing ratio of payroll to operating revenue and operating expenses, 1940 - 1949 in dollars and cents.

16841A

Contains statement showing ratio of payroll to operating revenue and operating expenses in percentage.

16842-59

Contains a statement made by Mr. Evans on behalf of the C.P.R. setting out the principles which have governed the Board of Transport Commissioners at arriving at just and reasonable rates.

16849

Mr. Sinclair on behalf of the C.P.R. points out that there is no statutory requirement or any order of the Board requiring a railway to secure an order for reduction of passenger train service, the practice being that where passenger train service on a given portion of the line of railway is to be abandoned completely, they always get an order of the B.T.C. If passenger train service is merely to be reduced from the service already in existence all that is required is that notices should be published in the stations and other places in accordance with circular 139 of the Board of Transport Commissioners. Always, of course, any reduction is open to complaint and section 312 of the Railway Act requires that adequate service must be rendered by the railways and if a complaint is made on a reduction of passenger train service the matter is gone into by the B.T.C.

16865

Mr. Liddy states that in his opinion the capital cost per ton mile in the future will rise substantially over what it has been in the past.

16870

Mr. Liddy's view is that a reasonable operating ratio or a reasonable ratio of net to gross earnings should at the present time be slightly in excess of 30%.

16872

Mr. Liddy is asked by Dr. Angus concerning the question of ratio of net to gross earnings, and whether he would expect that ratio to remain constant if labour costs of the railways rise sharply, and whether the net return would increase because labour costs increased. Mr. Liddy thinks that over a period of years it should increase, because labour costs are merely a reflection of the price levels and property investment will go up with price levels. Mr. Liddy thinks the ratio is the firmest basis they have of measuring what is a reasonable return, one of the yardsticks anyway of measuring what is a reasonable return.

16841

Mr. Evans on behalf of the C.P.R. says that the C.P.R. does not know whether the passenger service is paying out-of-pocket costs and in addition contributing something to the general revenue.



16339

Mr. Liddy explains that from the point of view of the C.P.R. capital for railway purposes is the value of the property that is devoted to transportation service at the present time, irrespective of whether that was purchased with the money derived from the sale of securities or whether it was received in various ways from other sources such as the Dominion Government, etc.

16393

On the question of telegraph service, Mr. Liddy points out that the cost to the railway of wire service is divided into two parts. The railway has certain exclusive use of wires such as despatchers' wires, and other wires are set apart for the exclusive use of the railway. The second part is that of the operating cost in which the communications department bill the railway at the same cost per message for operation as they find it costs commercial services. All messages are counted, railway and commercial, and that is divided into the operating cost.

16398

Canadian National includes in railway operating revenue accounts the gross earnings from commercial communication services, whereas C.P.R. does not.

Mr. Liddy feels that Canadian railways should adopt the straight-forward plan and get railway revenues and railway expenses on the same basis as they do in the United States. He thinks this could be accomplished by the railways and the B.T.C. together working out a satisfactory plan for uniformity of accounting.

16337

Regarding the user method of depreciation, Manitoba indicates that it will include the recommendation that the B.T.C. be required to fix the rate of depreciation and the method to be followed. Manitoba is not recommending that the statute set this out, but says that the Board should prescribe a uniform method, and that its choice ought to become compulsory.

16267

There are three main differences in the operating accounts of the Canadian Pacific and Canadian National. One is with respect to express earnings, one with respect to communications, and the other with respect to depreciation.

In the case of the C.P.R., net earnings of the express company from transportation are taken into rail earnings, and the net earnings from the financial operations are taken into non-rail income. On the other hand, in the case of the C.N.R., all earnings are taken into rail.



16975

Refers to I.C.C. classification and points out that at the present time it does not even provide an account for express expenses for the reason that no railway company has had any need to use such an account, and has not had since 1939, because all express for the various Class I railways in the United States has been carried by the Railway Express Agency, which is a company owned by the seventy Class I United States railways.

17000

C.P.R. in the case of their express company has a separate organization, a separate staff, separate officers, board of directors, accounting, clerks, etc.

17001

C.N.R. have not a separate company but operate their express as a department of the railway.

17003

Mr. Frawley on behalf of the Province of Alberta wants this Commission to recommend that the B.T.C. be given wide power to set up a uniform system of accounting and that it include express operations of the railway.

17006

Mr. Liddy is asked if the commercial telegraph services of the C.P.R. have been developed largely as a by-product of the railway operation, and he replies that it is a completely separate department with a separate general manager, separate accounting, etc.

17012

The telegraph service is operated as a separate department of the C.P.R., and the same applies to the C.N.R.

Mr. O'Donnell on behalf of the C.N.R. points out that in the case of the C.N.R. there are subsidiary companies but they are operated on a consolidated basis.

17024

Mr. Frawley points out that the position of the province before the B.T.C. was that if Other Income is not to be taken into account then at least Other Income must bear its proportion of corporate obligations, namely, fixed charges and dividends, and that in the last analysis fixed charges must be apportioned as between rail and non-rail and that dividends must be apportioned as between rail and non-rail. He goes on to point out that you would only charge to rail that portion of the fixed charges which have been apportioned to rail and you would then leave to be borne by Other Income, that portion of the fixed charges which have been apportioned to non-rail.

17025 A & B

Mr. Frawley refers to the judgment of the B.T.C. in the 20<sup>th</sup> Case at page 13 where it is stated as follows:



"The foregoing contention points directly to a fundamental difficulty experienced by the Board, that the Railway Act does not in its present form give the Board authority to control the accounting procedure of the railways in the manner advocated by counsel."

17025B

Mr. Evans on behalf of the C.P.R. points out that the B.T.C. for many years and in practically every rate case has ruled time and time again on the question of Other Income, and in fact have said - "We will not take into account in fixing freight rates, the income received from other than rail operations."

17027-28

Mr. Frawley's general contention is that on principle the items of income such as communications should be included as rail income, contingent on the B.T.C. proceeding on the requirement basis as opposed to the rate of return basis. If you are on a rate base basis, then other considerations apply. You would add the investment in these properties to the rail investment.

17062

Mr. Liddy points out that the I.C.C. had optional accounting for depreciation for road property from 1914 to 1943, and yet they had uniform accounting.

17063

The Canadian National have straight line depreciation for all equipment, retirement accounting for roadway excepting ties and rails and that sort of thing, and for that they have no depreciation accounting at all. The C.P.R. have the user method for all depreciable assets except inland steamships and have renewal accounting, in other words, not "precisely" accounting, but renewal accounting for non-depreciable road assets.

17065

Inland steamships in the case of the C.P.R. are on a straight line basis, and the reason for this is because the steamships are scheduled, their services are scheduled, so that it would amount to the same thing as the user basis.

17076

Mr. Liddy is in favour of depreciation accounting and is in favour of the user basis if they can all agree on that basis. If there cannot be an agreement then he is in favour of allowing each company to exercise its option as to whether it uses straight line or user.

17280

Mr. Frawley on behalf of the Province of Alberta contends that uniformity of depreciation is an essential part of uniform accounting, and suggests that this Commission go so far as to state that within uniform accounting there must be uniform depreciation methods.



17100

Mr. Frawley contends that the B.T.C. must have power to itself rule what shall be regarded as rail income, and then other income just is the remainder, that is all.



17116  
and  
17117

Suggested amendment by Maritime to railway act with reference to uniformity of accounting procedure and depreciation.

17122  
to  
17235

Deals with early financial history of the C.P.R. The cross examination of Mr. Liddy was directed particularly in an attempt to establish these points:

- 1.- That early investment in the C.P.R. was aimed at developing railway service and specifically long haul service.
- 2.- That some of the essential capital (proceeds of land grants particularly) were subsequently used in expanding non-rail services.
- 3.- That as a consequence investment figures for rail rate making purposes should be set down accordingly.
- 4.- That as a result of the early "intestations" toward rail service it was questionable whether the Company should try to compete with trucks or operate its own trucks for short haul business.

17141

Refers to Exhibit 180 and points out that the use of the term "dividends declared" while technically right actually so far as the shareholders were concerned, they had received a dividend of 3% from 1884 by virtue of the deposit of money with the Federal Government by the C.P.R. and an advance secured from the Federal Government for the purpose of guaranteeing a dividend of 3% on ordinary stock that had been issued for a period of 10 years. This dividend of 3% was in addition to any dividends which appear on Exhibit 180.

17153

The amount of the money paid out of capital was some sixteen million dollars, that is paid by the C.P.R. to the Government to guarantee the dividends.

17154

The amount of sixteen million dollars is included in the \$1,021,000,000. as railway investment and it is the suggestion of the C.P.R. that they are entitled to a return on that amount even though the sixteen million dollars was paid as dividends to their own shareholders out of capital. The C.P.R. looks on this as part of the cost of building the railway. The witness points out that there were peculiar circumstances at that period of the Company's history in which it was necessary to take inducements to any person to loan money.

17159

Refers to Exhibit 181 which shows details of investment in railway property and instalment in that are donations to the extent that property was built with donations. The witness points out that all the property



in this exhibit represents investment and that the C.P.R. is simply asking that a return should be made on this investment.

17179 Refers to Exhibit 190 and the witness points out that the Land Account does not appear in this Exhibit.

17180 Witness points out that it is almost impossible to ascertain how much of the common treasury had been used to finance rail operations and how much had been used to finance other operations of the corporation.

17185 Witness refers to Exhibit 190 and points out that his statement that there was other income that the corporation had which was not reflected in Exhibit 190 was incorrect. "That was an inadvertent and hurried answer and I want to say that all income of the corporation is in one way or another reflected on this statement, but that the profit and loss --- the land surplus balance is not recorded"; but any money that comes to the corporation from the sale of land or from all rights goes into the common treasury of the company and is reflected in one way or another throughout this statement"

17205 Refers to Annual Report of C.P.R. which shows C.P.R. owning 48 wholly-owned rail subsidiaries; 16 controlled railway companies; (the majority of which are in Canada); 8 jointly controlled rail companies; 14 leased railways in which the C.P.R. has no investment by way of ownership of common stock or ownership of bonds but in which it has leases; 13 wholly-owned non-rail subsidiaries; 10 controlled non-rail companies.

17210 The witness is asked whether when money was originally put into each of these ventures, that the original intention of the investors was to further the railway end of the company and the witness replies as follows: "I would not say so, Mr. MacBarnson. A lot of these things had a complementary effect on the railway. As a matter of fact, it would be very difficult to conceive of any investment made in Canada that would not help the railways, whether you put it in the pulp mill or what have you, but I think these investments were made really to fulfill somewhat the contract, and that is to maintain this railway and operate it efficiently forever."

17211 Witness suggests that when you come to test rail rates that you should look at the rail investment and the rail returns and decide whether they are reasonable or not reasonable and what should be done about it.

17217 In the question of trucking and the co-ordination of trucking operations with rail operations the witness states as follows: "Now, if it is possible to co-ordinate the trucking services with that and avoid building branch lines and avoid perhaps stopping trains at every little



station along the right of way, we want to see what is in that business, and to see whether or not we can have railway transportation at a minimum; because our whole life blood depends upon this railway plant that we have, and we are doing everything we can to protect that railway plant, to protect its future, and to build it up along some economic lines."

17214

Mr. MacFarlane points out that what he is trying to bring out is that this Commission must give consideration to whether there must not be some measures of integration of trucks and rail, and whether or not under the circumstances and in the evidence that is before the Commission the C.N.R. may be following a strategy in trying to get all the traffic of all kinds.

17222

Refers to the case of the C.N. Electric Co. being a decision of the C.N. Public Utilities Commission in Public Utilities Reports at Page 422 dealing with the question of donations etc. "Donations, customers' deposits, notes on hand for payment of taxes, etc., require special treatment. These funds are used by the utility in construction or replacement of plant or as working capital. They do not represent a decrease in property value or in the amount of working capital as defined in this judgment. But as the shareholders do not provide these funds they are not entitled to a return on them. One method of treatment is to deduct some funds from the rate base but in this case this is impractical. These funds, with the exception of customers' deposits, are not related to the units of service, and cannot be segregated except on some purely arbitrary basis.

"The method used is to treat these funds as non-interest-bearing notes and no return is allowed on them in the calculation of the rate of return. The ultimate result to the consumers is the same. Though the funds in question are not deducted from the rate base, they have a compensating effect in reducing the rate of return on that rate base."

17237

Also refers to decision of the District of Columbia Public Utilities Commission (AS Public Utilities Reports at Page 94) dealing with uniform classification of accounts for telephone companies, which states as follows:

"Statement, in connection with accounting order, that contributed plant or plant paid for by cash contributed by subscribers or customers of utilities although belonging to the utility, should not be included in the rate base."

*Vol 90*

17231  
to  
17232

Mr. Evans gives details concerning the incorporation and strikes involved in the Toronto Terminal Railway Company.

17233  
and  
17239

Mr. MacFarlane contends that as far as the actual figures are concerned as a result of Exhibit 42-43 in



SEC Case that Exhibit 190 does not represent the actual present position of the company, and refers in this regard to the question of dividends which are not properly reflected since they do not include the 36 dividend guaranteed by the Federal Government and to this extent the Exhibit does not set out the actual receipts by shareholders from the Treasury of the company. He goes on to point out that from the standpoint of the freight payer one must look at the position of the corporation as a whole, both rail and non-rail.

17272  
and  
17273

The witness reviews the accounting methods followed by the C.P.R. and states as follows: "The Canadian Pacific followed for road property and shop and power plant machinery renewal accounting since its inception up until July 1st, 1943, and then it went to depreciation accounting. That is the only change that was made in accounting for road property. Now, when depreciation takes place, may I say that the previous practice of charging losses to profit and loss for lines abandoned and large projects retired and not replaced, was always charged to profit and loss, because there was no reserve, but when we start depreciation accounting we immediately set up a nucleus, and some of these adjustments that I have been speaking of were to build up that nucleus. Now we have a reserve and you can charge a \$10 million item to that reserve and not upset your year's accounts. So that there was really only one fundamental change made throughout all the Canadian Pacific history in road property. Now, in respect of equipment, it may be two or three changes, depending upon the degree of refinement you speak of. Let me describe it this way, that up until the year 1930 the Canadian Pacific followed the renewal accounting for its equipment; that is, a unit of equipment was retired, the capital account remained the same, and a new unit was brought in and charged to expenses. That is, take a \$2,000 freight car that may be retired and replaced by a \$2,500 freight car; that \$2,500 was all charged to expenses. Now, in 1930 we were looking forward to complete abandonment of that replacement programme, because the cost of new units of equipment not only was increasing, but they were greatly increasing in size, and the fundamental feature of the replacement accounting became obviously out of line, so we looked forward to abandoning completely renewal accounting, and we went to retirement accounting, but we struck the depression right then, and we felt that, since there were many cars and locomotives on hand we would not need during the depression, we could retire them perhaps in advance of the time we might ordinarily retire them, that our retirement charges would represent a fair amount to be charged to expenses during the depression. Well, immediately that situation changed; that is, these retirements began to dry up. We had retired all the old equipment we wanted to retire. Then came along the war, and we needed every wheel we could get rolling. No longer did we have retirements on hand to charge out to



expenses, so we immediately converted to depreciation accounting for rolling stock. So really there was only one change, although it was perhaps in a ten-year period between replacement and depreciation accounting. That is the only change that has existed throughout the entire history of the company. Now Mr. MacFarland has pointed out some adjustments.

17375

Witness points out that over a period of years the railway company has had to incur another income as well as land surplus and refers in particular to the depression years when there was scarcely anything else to incur against

17380

Mr. Smith, on behalf of the Province of Nova Scotia, in examining Mr. Liddy refers to an Exhibit filed before the I.C.C. containing a statement of the methods employed in the ascertainment of the elements of value. The ascertainment of original cost is stated to rest on:-

- 1.- Record or proof of cost of the properties included in the basic inventories and valuations, that on January 1, 1948, were still in existence and use;
- 2.- Recourse to estimate of original cost for properties that were in existence at the time of the original valuation and that were still in existence and use on January 1, 1948, but for which no record or proof of original cost was then or is now available;
- 3.- Record of changes that have occurred in properties subsequent to the date of basic inventory and valuation, reported under oath by the carriers by units and costs and checked to as late a date as possible by the Bureau of Valuation engineers and auditors;
- 4.- Recourse in the case of carriers that are delayed in filing their Reports of property changes by units and costs for some of the late years, to reports which record changes in dollars only."

17399

Witness suggests that passenger service is complementary not only to the freight service but to the communities it touches and also suggests that it may be complementary to the railway's investments in hotels.

Witness thinks that even if the I.C.C. practice with regard to segregation of passenger and freight revenues and expenses was not followed that it would still be possible to arrive at pretty much the same conclusions as the C.P.A. arrive at in their Exhibit 180.

17300

The witness states that he does not think Class I Railroads in the U.S. regard passenger service as a losing business in as far as they would cease to operate if they had no passenger business. In the opinion of the



witness they report it very much as the Canadian railways do, namely that the passenger business is not able to bear its pro rata share with freight of all the items of expense.

Suggests that a raise in passenger rates would discourage travel.

17302  
and  
17303

The witness agrees that the Huff Hotel would not have been built without regard to the passenger service.

Witness agrees that abandonment by railways of passenger service may lead to loss of freight service. He states as follows: "You see our freight and passenger facilities are together at a point. Take for instance a small community; usually the freight station is half a mile outside the town or something like that, and the town has grown up to meet its commercial needs by taking passengers and freight from there to the station. Now we abandon the passenger service; people no longer go to the station for passenger service; they would also no longer go to the station for freight; truckers would come in, and they would make other friends. Now, I think that is one of the poorest examples that I can think of, but there is, I think, quite a connection between maintaining your passenger service to help the freight."

17304

The witness does not think that the time has come when the C.P.R. should consider abandoning passenger service.

17305

The question of passenger service on this traffic line and the abandonment of such passenger service is discussed and it is pointed out that in the eyes of the C.P.R. the mere fact that the railways lose money is not considered as sufficient reason for abandonment.

17307

Mr. Evans, on behalf of the C.P.R., points out that the I.C.C. in a case such as this will weigh the disadvantages they find appearing in the evidence before them against the loss shown to exist by the railway, and will come to a conclusion of, not a formula, but a weighing of the advantages and disadvantages they have presented to them.

17309

The witness is firmly of the view that the I.C.C. practice of segregation of freight and passenger would add nothing either to help the Board of Transport Commissioners or the railways or railway management.

17311

Suggests that I.C.C. method of segregating passenger and freight would be expensive.

17312

Witness suggests that the rate base and rate of return is the only solution in Canada for expediting rate application hearings and the variable formulae.



17313

This rate base as established in the U.S. is the only basis that has stability. Declines that to establish a rate base might cause some difficulty and take some length of time but suggests that once established it is preferable.

On the question of uniform classification of accounts witness points out that the books would immediately be removed from the railways and the railways would have audited figures of an impartial body and that this would be bound to expedite the situation.

In the final analysis you would take your rate base after it having been established and you would submit your figures of revenues and operating costs, which you say would then have been checked and audited by the U.T.C. and that would show your net revenue or deficit and then you would simply have to show what your requirements were from a rate base point of view.

17314

Witness admits the possibility that it would be futile to fix a rate of return for a depression period because no freight rates could go beyond that rate of return since traffic would not bear them. His suggestion is that over time you should get that back by additional profit in other years in order to even out the situation.

17315

The witness deals with an estimate of a rate base and suggests that as round figures they shall take the depreciated railway investment at say one billion dollars and assume a rate of return on that.

17316

and

17317

Deals with other figures for the purpose of examples in arriving at a rate base using a rate of return of 6%. This would provide a rate of return on the par value of common stock of a little over 7% for the corporation.

17319

If the other income was omitted from this computation the yield on the par value of the common stock would be something less than 5% and in the opinion of the witness this would be insufficient to attract capital.

Witness thinks that a basic element in determining a fair return rate is what will attract capital.

17321

Witness thinks that the rate base is a better method than the requirement method.

17324

Dr. Angus questions the witness as follows:-

"Q. Would it mean, Mr. Liddy, or do you mean they should be able to borrow money on return of full operations alone? I mean would you be selling your stock at this hypothesis, at par or considerably above par, because there are also dividends from non-railway property.



A. That is true, Dr. Angus. If the shareholder does not benefit from non-railway property which was built up largely out of their own earnings, you can only fool them so long; they won't give you any more money unless you make a return on it. I think in the Canadian Pacific situation where we have extensive investments in non-rail enterprises, that our dividend rate should be such that there would be no question that we could go out and borrow money at a very low rate of interest and secure a premium on any share capital that we might issue, and that would, to my mind, be a sound situation and a great benefit to Canada and to the railway entirely.

and further at 17325 -

Q. I put it this way, if I say ask you this question: we have had earlier in these proceedings a suggestion that the Canadian Pacific stock should sell at par. Are we now discussing a suggestion that it should be in a position to sell at a premium?

A. I think the evidence in the 20 per cent case was that it had to sell a little above par to enable an issue to be made, because if it was just at par and an issue was made, it would of course depreciate it.

17326  
and  
17326A

Mr. Sinclair, on behalf of the C.P.R. points out that they look on the earnings of the non-rail investments as a cushion and that they think the C.P.R. is entitled to a fair return on investment on rail property, which according to the evidence given in the 20 per cent case by the C.P.R. was they believe 6 and 2/3rds per cent.

17328  
and  
17329

The witness thinks that it would be possible to work out a rate base that would be approved by the C.P.R. otherwise than by a physical valuation in view of the fact that the C.P.R. has detailed accounting figures and a continuous accounting record to permit an independent verification of historical cost of investment in railway property.

Witness thinks both the C.P.R. and the C.N.R. should be on a rate basis since that is the only way to get a common yardstick.

17330  
/common

Thinks a rate base with property investment gets down with the two companies to the same elements of cost, the only ground that the witness knows of. Suggests that requirements cannot be a common ground with the two companies.



17336

Witness states that as long as there are two rate bases and the C.R.R. is allowed to earn a proper rate of return and the C.N.R. is allowed to earn a proper rate of return, that the C.R.R. would have no objection to a revision of the capital structure of the C.N.R.

17339

The witness agrees that if there is any reduction in the fixed charges of the C.N.R. the C.R.R. does not want that fact to prevent the C.R.R. from earning a reasonable return on a reasonable level of railway property investment.

17340

Witness indicates that the fear of the C.R.R. arose out of the fact that the fixed charges of the C.N.R. might be reduced and the rates fixed on a requirement basis due to inevitable public pressure. For this reason the C.R.R. in any revision of the capital structure of the C.N.R. would want to be assured that they would be put on a basis that they get a fair return on depreciated railway investment.

17343

The witness agrees that prior to 1942 the requirement basis was satisfactory to the C.R.R. in view of the recent developments, however, and the length of time taken in the hearings in the recent rate increases, the requirement basis now seems unsatisfactory.

17346

Witness agrees that a rate basis might entail the reorganization of the C.R.R. but does not envisage a large staff.

17352

Refers to the prudence of investment and that in considering what items are properly included in a valuation for a rate base, investments which are not prudent are not allowed to earn a rate of return.

17353

The Chairman suggests that prudence must mean the prudence exercised by those who enter into the investment.

17357

Refers to a quotation from the Economics of Public Utility Regulations, 1942, second printing 1947, Page 277.

"The term 'prudent' has been prefixed to 'investment' to indicate that the rate base should not include expenditures which are obviously unreasonable, extravagant, or fraudulent."

17364

Witness indicates that in his opinion it is unfortunate that the railways did not get some relief in freight rates before the war had ended and that the difficulty now is that they are applying in periods when costs are high and when it is generally felt that the high rate will continue for a long period of time and that this fact explains the strong opposition to the applications for increases.



17365

On the question of cost accounting the witness states that in his opinion the U.S.R. keeps an effective a system as any Class 1 U.S. Railroad. He goes on, however, to point out that railroads do not lend themselves to cost accounting in view of the number of irregularities and fluctuations which take place from time to time.

Vol 91

17366

On the question of depreciation the witness agrees that the straight line basis would be uniform throughout the period of years, whereas the user basis would vary sometimes for higher and sometimes for lower than the straight line according to the volume of traffic. The reverse requirements on the straight line basis would be found to be less in a good year and more in a poor year and it is for this reason that the U.S.R. advocates the user basis.

17377

Witness points out that U.S.R. has paid \$11 million dollars in income tax from railway operations and \$7 million from other income.

17378

U.S.R. has not made a request to I.C.C. for approval of user basis in respect of their R.R. lines. They apply user basis to their entire system and then for the purpose of the I.C.C. make a side record of the depreciation that the I.C.C. ask to be applied on the U.S. lines.

17381

Refers to Income Tax Department fixing maximum allowances in respect of depreciation and witness says that he does not think the U.S.R. depreciation charges under the user system ever reach the maximum allowances or exceeded the allowances permitted by the Income Tax Department.

17383

Income Tax Department have set a ceiling of 6% on depreciation so that as long as the user basis comes below the ceiling there is no problem with the Income Tax Department.

17384

Witness thinks it is fair to say that at the present all the surplus accruing from freight rates has been invested in rail enterprises.

17389

Witness points out that they have always had the user basis of depreciation since they commenced depreciation accounting in 1941 for equipment and 1942 for road property.

17398

Witness thinks that there probably should be legislation to enable the U.S.R. to prescribe for carriers the classes of property for which depreciation charges may be properly included.

17399

Witness thinks that as a starting point the U.S.R. should have power to prescribe the property which is to be subject to depreciation.



17408

Witness thinks B.T.C. should have power either to approve or fix the rate of return and that the railways should be able to come in and show their case.

17412

It is pointed out to the witness that the B.T.C. has urged the desirability of uniformity and that they have suggested that in the case of depreciation where uniformity could be achieved it might be well to permit the railways to follow different policies.

17414

The witness states that no matter what basis of depreciation one may choose, provided that it is a rational basis, it will be found that over the life of an asset under orthodox accounting it must come out to the same amount. There will not be uniformity if one method postpones the cost of retirements until the date it may be retired; it may be 50 years, it may be 60 years; it may be 70 years. Under such a basis there can be no comparability in accounting and there can be no comparison between such accounting and depreciation accounting.

17417

The witness agrees as follows:

- 1.- That the B.T.C. should have the power to prescribe the manner and form in which reports are to be made.
- 2.- To provide that the reports should give an account of the affairs of the carriers in such form and detail as may be prescribed by the Commission.
- 3.- That the B.T.C. should be able to prescribe a uniform system of accounts applicable to any class of carriers subject to the jurisdiction of the Board, i.e. small as well as large railways.
- 4.- That the B.T.C. should have the power to prescribe the period of time within which the railways should have this retirement uniform system and the manner in which they are to be kept.

17425

Witness refers to Department of Development, B.T.C., which is responsible for making studies by engineers and others to canvass the prospects of constructing a new line and considering the desirability and profitability of same.

17428

Witness thinks that the fixing of the general level of freight rates on the basis of a rate base would tend to stabilize rail earnings or the return to investors in rail securities. Thinks that if they have permanency in the yield that that would be very beneficial.

17433

Witness is asked if the investment were to increase substantially without any immediate increase in the returns at the existing level of freight rates would that mean that there would have to be a freight rate revision. His reply is that this would not necessarily be the case,



but rather it would be a matter of judgment as to whether the railways felt that they would wait a little while until that investment began to earn its fair return.

17433

Mr. Twiss, on behalf of the C.P.R., points out that their principal fear with respect to re-nationalizing the C.P.R. is as follows: "If the nationalization of the Canadian National were reduced in the absence of some specific provision that a reasonable return would be allowed on a reasonable level of property investment, to be left to the Board presently, then the danger would be that pressure would be brought to have the Canadian National looked at as the only yardstick, and their requirements, which would then be reduced by the reduction in the fixed charges, set as the measure of the relief the Canadian Pacific would get. Now, that would of course, conclusively put the Canadian Pacific in a position where it would not live, and that is the threat we see in something that does not provide the protection which that language suggests."

17440

Refers to section 141 of the Railway Act requiring the approval of the B.T.C. and the sanction of the Governor-in-Council as to agreements for sale, lease and amalgamation.

17441

Refers to section 154 of the Railway Act dealing with traffic and running rights and approval required.

17475

Mr. James C. Thompson, Accounting Witness for the C.P.R. dealing with the question of depreciation states that the straight line method of depreciation in the case of railways provides for depreciation in excess of requirements when facilities are not in use; and conversely, far less than requirements in years of intensive use. In his view the user basis is more realistic, in that it is geared to the use of facilities and distributes the charge or charges more equitably.

17476

In the witness' view when you have a rate of return predicated on a rate base, it is not necessary to apportion dividends between rail and non-rail.

17477

The witness refers to the question of interest rate and states that in his opinion a favorable interest rate is predicated upon certain factors - demonstrated earning capacity or what is usually termed "interest coverage" and that is in most cases measured by a statement showing the amount available for the payment of interest, a statement covering the period of ten years and in that connection emphasis is placed on the steadiness of earnings. While confidence in a company is built up if a company can show that it has earned and in all probability will continue to earn amply a satisfactory coverage for the interest requirements. The further factor is the nature of the property pledged.

17482

The witness submits that in order to determine a rate base the amount of depreciation reserve would ordinarily be deducted from the gross investment in the railway



property and if the amount of that depreciation reserve is known it is not necessary to segregate the funds which have been created by setting aside a reserve. In other words, all of the depreciation recovered from the users, comes off the investment base for the purpose of return.

The witness feels that at present there are safeguards against the undue accumulation of depreciation reserves. Any excess accumulated a company have set aside will be reflected in the depreciated reserve and when the amount of that reserve is deducted from the investment to arrive at the depreciated investment, the rate base thus determined upon which the rate of return is predicated will be that much lower.

17405

The witness does not think there is any distinction in principle between the use and replacement of consumable supplies provided originally out of shareholders' money and the use and replacement of fixed assets, but the process takes a little longer.

17406

The witness gives as his view that statements showing the financial results of railway operations should not include earnings revenues arising from non-rail operations since the end result would be neither rail nor non-rail, but a combination of both and therefore confusing. If, however, non-rail income is to be isolated then the additional non-rail investment should also be included and should be permitted to earn a reasonable rate of return regardless of whether the non-rail activities produced a profit or a loss.

17407

In the witness' opinion, the governing factor as to whether items should be classified as rail or non-rail should be whether or not the asset is producing or furnishing transportation service, in which case it should go into rail.

The witness thinks the C.P.R. in reporting as rail income the net revenue from express services and excluding any revenue from financial services of the express company is following the correct procedure. He holds the same view with regard to the C.P.R. Telegraph that the rail activity should only be charged with the cost of furnishing communication services to the railway.

17408

The witness thinks the two methods of depreciation, straight line and user, cannot be reconciled for rate making purposes and he does not think it should be necessary to tie the hands of any railway which one in mind or wishes to adopt the user method. He thinks that for its own corporate purpose there should be freedom among the carriers to select whatever method of depreciation they wish and that there should be no objection for rate making purposes to take the one method or another prescribed for all carriers.



17480

Refers to the question of maintenance and states that in his opinion this is largely a question of management and that any management must at all times have in the back of its mind the safety factor and the necessity of spending money in order to maintain the road to a reasonable degree of efficiency.

17481

The witness thinks the question of investigations of maintenance expenses by the R.T.C. should be left to the judgment of the R.T.C. without directing them to do it by specific legislation.

17499

On the question of uniform accounting the witness agrees that the R.T.C. should have the power if it so desires to check into the accounts to satisfy itself that the carriers are in fact applying a more or less uniform interpretation of the classification.

17501

The witness agrees that approval of the rate of depreciation by the R.T.C. also involves the question of approval of the method of depreciation by the R.T.C.



Cal 92

Mr. James C. Thompson - witness

17504  
to  
17505

Witness states that there should be an leveling of the basis of depreciation for automobile purposes and another for rate-making. Gear basis is sound for both.

C.P.R. should always be in a position in which it could not be accused of overvaluing its assets.

Witness agrees that real level of market value of assets is not too high but it will depend upon life of assets being depreciated varies with use.

Witness if asked to make it with gear it would make no difference which method used, but he would prefer user method preferable.

17511

Witness states that for depreciation from amortization accounting did not start till Jan. 1st, 1940.

17512

Witness states that group basis contemplates depreciation will continue until whole group written off. Lifetime of units is different. Best periodically test rates to ascertain amount of reserve.

17513

Witness says if business becomes more complicated it is necessary to depart from unit basis to group basis. Principle recognized by Income Tax Dept.

17514

Witness says one of factors of rehabilitation of C.P.R. with regard to fixed charges is if it is to be used as a yardstick for rate-making purposes.

17524

Witness says there are two ways to handle C.W. Foundland Railway (1) Govt. can ask C.P.R. to run it as part of C.P.R. (2) Govt. can take over completely and ask C.W.R. to run it for them.

17529

Witness interprets statement by Mr. Walker as meaning C.P.R. should earn reasonable rate of return on its rail property investment.

17530

Witness states that rate of return set on reasonable rail property investment would be such that return would be paid to equity owners, in case of C.W.R. to Govt. of Canada.

17531

Witness states that fact that C.W.R. does not have to pay dividends is fundamental difference between public and private ownership.

,17536

Chairman states surplus in case of C.W.R. might be used to pay dividends, but in case of C.P.R. there would be nobody to pay dividends to.



17635

Mr. Frawley on behalf of Province of Alberta  
witnesses that in his Province was convinced that  
railways should not pay taxes. In Government of the  
country. They public utilities are not at a profit  
to receive taxes.

17636

17636

17636

Mr. Frawley states that he does not think  
C.P.R. should impose higher rates to benefit rest of  
Canada.

Mr. Frawley submits that C.P.R. must be yardstick,  
and C.P.R., because same is dividend is indivisible  
objective of C.P.R.

He stated he is willing to pay C.P.R. reasonable  
dividend on railway investment - no more.

Mr. Frawley says Province of Alberta never  
objected to C.P.R. dividends of 4 and 5%.

There are object in dividend of 4 and 5%, but says  
it must be apportioned and other income must bear its  
share.

5% is all right as corporate dividend.

17637

Mr. Frawley states "dividend at 5%" is his  
conception of public ownership of public utility.

17641

Witness Mr. Thomson agrees uniformity of accounts  
isirable.

17642

Witness states railways should first decide, when  
N.T.C. asks whether item rail or non-rail.

17643

Mr. Frawley agrees N.T.C. would have satisfactory  
information on whether item is railway or non-rail  
rail or non-rail and if railways were in no way  
be subject to railway and non-rail.

17644

Witness Mr. Thomson states he does not record  
Toronto Terminal Railway as rail investment.

17645

Mr. Frawley on behalf of C.P.R. witness states  
that Alberta income of 1947, at page 17, and  
witness it contains no suggestion of loss or gain of  
N.T.C. to leave in or take out specified matters of  
other income.

17646

Mr. Frawley speaking of apportionment of fixed  
charges and dividends refers to statement of 1947, in  
his book at page 17. "It may be that some of the  
fixed charges of the Canadian Pacific are attributable  
to non-transportation enterprises. But because of the  
close relationship of railway transportation and other  
enterprises of the company I have not been able to  
calculate with any degree of satisfaction what amount,  
if any, may be."



17891

On being questioned by Commissioner Angus as to whether Illinois rate base that turn on rate base basis should give same results as those that turn on rate base and rate of return, witness Mr. Thomson states that two methods may or may not give identical results and in this regard much would depend on the amount of surplus included in requirements.

17892

Witness states that if concept of fair and reasonable is to be changed decision lies with the courts without prescription by statute.

17893

In reply to question by Commissioner Angus witness states rate base changes with fluctuation in reserve. If reserve goes up rate base goes down and on rate of return basis carrier gets less.

17894

to

17895

Mr. MacPherson on behalf of Province of Sask. refers to statement in Barnes on the Economics of Public Utility Regulations with regard to early attitude toward regulation of expenses.

17896

Witness says he does not know whether any scrutiny has been conducted by R.T.C. into maintenance costs of railways.

17897

As to whether dividends and a reasonable surplus should be provided for operating expenses, witness says that with regulated utility amount which it is permitted to earn is fixed either by requirements or a rate of return on a reasonable rate base. Therefore it is necessary to consider costs including depreciation, operating costs. If all those elements are not recovered, then you have not recovered your depreciation.

Surplus after dividends paid should be used by company to come and go on. Impossible over years to reduce asset values. Therefore any company should have surplus in preserve its liquidity, for advantage of users and protection of shareholders.

17898

Witness thinks dividend should be paid before surplus provided.

In reply to Commissioner Angus witness says surplus in any one year or year would increase more than.

17899

Referring to his statement earlier in evidence re classification as rail or non-rail, that governing factor is whether asset is providing or furnishing transportation service, witness now states he would not include operating and that what he really meant was "furnishing rail transportation services".



17642

Witness thinks R.F. should take into consideration the various factors involved and decide which of the lines should be rail and which should be non-rail. That could be done in consultation with appropriate railway officers.

17643  
to  
17642

In answer to preliminary question witness says he does not think railways in Canada are strictly comparable with other regulated utilities. In case of public utilities controlled by provinces there is greater supervision by regulatory authorities.

Witness does not think that if income varies a great deal from year to year that in fixing a rate to correspond to a rate base the regulatory authority must take the year as average, flat or lean. If the regulatory authority allows some margin and a railway runs into a period where it is not making money, it has something to come and go on.

Difference between years will reflect itself mainly in size of surplus in each year.

Agrees that in allowing surplus it is rate of return that sets it. The rate of return normally should be sufficient to provide for a reasonable surplus and that is definitely predicated on the rate of return.

17643

Witness says that even when company goes to R.F.C. on basis of requirements, there should be no apportionment of fixed charges or dividends between rail and non-rail.

Mr. William Arthur Newman - witness

17644

Witness states it must be borne in mind that the capital program amounting to \$400,000,000 over a period of five years is by no means all likely to produce operating savings. e.g. The purchase of equipment consisting of freight cars and passenger cars to restore lost-out work capacity and to meet expanding national requirements alone which an operating savings can be seen, amounts to slightly more than \$190,000,000. By restoration of work capacity to meet the purchase of sufficient equipment to maintain the capacity of the equipment-bearing rail from time to time and which must be replaced during the period. By expanding national requirement to meet the growth in total capacity required to meet the increased traffic due to population growth which was referred to by him in the last week.



Witness - Mr. William Arthur Newman.

17650

Witness states it must be borne in mind that the entire program amounting to \$400,000,000 over a period of five years is by no means all likely to produce operating savings. e.g. the purchase of equipment consisting of freight cars and passenger cars to restore worn out work capacity and to meet expanding national requirements upon which no operating savings can be seen amounts to slightly more than \$125,000,000. By restoration of work capacity is meant the purchase of sufficient equipment to maintain the capacity of the equipment wearing out from time to time and which must be replaced during the period. By expanding national requirement is meant the growth in total capacity required to meet the increased traffic due to population growth which was referred to by him in 20% case.

It therefore follows that approximately one-half of the total capital required in the five-year program is not such as to contribute anything to savings.

17651

Witness states that there are two parts to the equipment program (1) Merely to restore capacity lost each year by the wearing out of tools (2) Additional tools or equipment ~~such~~ to handle nation's increased traffic due to expansion in population.

17652

to

17655

Mr. Evans for the C.R.R. says that the purchase of locomotives, although they may be merely for the purpose of restoring work capacity and for meeting expanding national requirements will produce savings because of new and more efficient types now available. As he states in 20% case thinks it unlikely C.R.R. would buy any more steam locomotives as more efficient diesels now becoming available.

Therefore program for locomotives involves a program of dieselization and because of the change from steam to diesel investment of slightly more than \$25,000,000 over the next five years would probably produce, after completion of the program, slightly more than \$15,000,000 per annum of gross operating savings.

Gross savings from equipment and road property involved in program will be more than \$25,000,000 per year.

This amount will only be realized in 5th year, upon completion of plan.

However, savings offset in several ways by additional expenses.

Additional expenses involve primarily three general groupings (1) Interest charges on additional investment, which for the purpose of the estimate are taken at 4% on equipment (due to a desire to finance equipment on a lower basis than other borrowings) and 5% on road property. (2) Additional charges to expenses result from the fact



that with an increased inventory of depreciable property, the depreciation accruals would have to be increased.  
(3) The carrying out of the program would involve in addition to the capital expenditures, charges to operating expenses amounting to \$10,000,000 annually to cover the cost of replacement of non-depreciable property (most rail and ballast) and incidental charges.

17360  
to  
17361

Witness states first thing which must be faced by railway is how to get work out of expensive equipment. Unfortunately railways rather belated in this regard as 43% of calendar time of freight equipment is not under control of railway, but under control of shipper or consignee in loading and unloading.

Necessary to analyze 57% of calendar time left and see how they can get considerably increased utilization out of equipment.

There are three ways to do this (1) keep it under repair less time. (2) get it over the road faster. (3) use terminals to expedite the movement of trains and cars through rather than delay them, which is a fact at present time as terminals never built to meet modern requirements for rapid transport.

In analysis - Five per cent for repair; 11% per cent of time wheels move; 40 per cent of time going through terminals; 43 per cent of time in the hands of shipper and consignee.

Attaches most importance to reconstruction of terminals to some degree from coast to coast.

17362

Witness refers to table covering the gross expenditures for equipment in the five-year period and says it is based upon what railways call normal expectancy of traffic - not on to-day's volume, not on the low level, but, the average levels, because to bring equipment in any other way would require too heavy an investment to meet peak periods.

17363

States studies have been made at some length both in Canada and the United States re the growth in population as related to growth in traffic and has been found that on a normal increase -- no jags, but on an orderly basis - 1,500 revenue ton miles per year per capita are created by growing population, and increased national requirements are based upon examining each year what the growth has been and is indicated for the immediate year in front of you, in order to see what problems to be faced in the way of added transportation so that railway does not propose to assess this year for five years in advance, but only from year to year, where they can read carefully what has happened and apply it to immediate future, but for purpose of indicating this group they have taken the average increase in population in Canada per year for a five-year period as 250,000 per year, so that this additional equipment for expanding national requirements is sufficient to take care of the traffic needs, that is, the Canadian Pacific to take care of its share of the traffic needs of an additional 250,000 per year.



17370

states 10,500 new freight cars necessary to restore work capacity for five-year period and 335 new passenger cars.

\$7,500 per unit is average cost of freight cars.

\$75,000 is average cost of passenger cars. C.P.R.'s new passenger cars costing \$125,000 and sleeping cars costing \$200,000.

17380

Witness describes function of C.P.R.'s Department of Research as just as broad as you could say, but in general they are directed to anything that would increase traffic, improve traffic, or would increase efficiency or develop economies. Beyond that there is no limitation.

17383

Explains diesel is replacing steam because the thermal efficiency of diesel on average at the rail is 25%, and it is 5 for steam.

17384

With diesels average saving in fuel in terminal service is 80%, in freight service 33%, and in passenger service 30%.

17385

to

17386

Referring to Canadian Automotive Transport Association's recommendation that Railway Act be amended to prevent acquisition of highway transport operations by railways witness says railway considers they are a transportation company and that they must have ability to use any form of transport that will enable them to fulfil their obligations to nation of providing good transportation at the lowest possible cost.

Believes time will come in Canada as it has in United States, when it will be desirable in the best interests of Canadian transportation for railway to replace some of their branch operations with highway operations. They think it is essential for them that it be recognized that, as a transportation company with an obligation to the municipalities and to the towns in different areas to provide transportation, that they maintain the right to do so.

Speaking of the right of the railway to go on the highway for themselves the witness states that all that would be done in most cases is to reduce a severe loss to lesser ones and is doubtful if in all cases business they might have to do would be attractive to anyone on a contract basis. It would be attractive to railway as they could substantially reduce their own losses.

Referring to so-called Key Point system in the United States, witness explains that under it railway companies may operate motor trucks only where the freight being transported has had, or will have, a rail haul. That is to say, you bring the incoming traffic to a so-called key point out of which radiate the operations which are done on the highway.



Mr. Evans for C.P.R. says that in the United States there is a limitation put upon the right of railways to exercise other modes on the highway, and that limitation is based on the so-called Bay Point System. Says that it has been referred to in number of cases as being perhaps a desirable compromise between absolute prohibition and complete freedom.

19700

Witness Mr. Newman states that the views of the Board of Transport of C.P.R. in regard to future traffic of the company are based in the event of railway supplies displaced from highway transport instead of rail transport, railway must not be denied the right to close transport facilities to points that lie entirely on the line which he leaves operation. They have obligations for service in those areas, and to say that points that lie 25 or 30 miles away from the connection point with the main line would not be served by railway trucks would be to deny them facilities that they now have on the railway, consequently the railway feels that if they require in future, as they must, to extend longer or more-acting branch lines, by reducing them into highway services, they must have the right to give service between points on these branch lines as well as only to goods that must move off the main line or on to the main line.

19700

to  
19700

Referring to Independent Lines, Mr. Evans for C.P.R. thinks if a branch line is required by a truck service a provincial license would be required. If it is a purely interprovincial movement it would be strictly exclusive jurisdiction of the Dominion.

insists right to use the highways and to be taxed for the use of the highways unconditionally consistent with the provision under any system of uniform regulation, but the issuing of licenses for interprovincial movements is clearly within the jurisdiction of the Dominion.

Mr. Evans agrees railways would have a clear right in the case of interprovincial license lines to regulate by truck, whereas intra-provincially they would not. Thinks everyone agrees that it is in interests of regulation that there should be a certificate of public convenience and necessity required and in those cases railways would probably be able to establish that the maintenance of service on the rail justified the maintenance of the highway service, and that it would be a matter for argument in a particular case. That should be the case when you are applying for an interprovincial license or an intra-provincial license, because the case presents itself, and most of the provinces require some evidence of public convenience and necessity.



17709

Wittke thinks that program cannot proceed as all railroads stock remains poor. All railway has as under present circumstances is spend what money they have available and not waste by ordinary means; and present indications are that the five-year program will be delayed considerably.

17710

Wittke says dissemination program possible or difficult with library.

Dissemination as it stands even under railway's existing arrangement with library; as difficult as for.

17711

If railway goes into dissemination program there is no serious problem as to what they will do with present stock locomotives.

All that will happen is that there will be a deterioration of railway's position because the best of class locomotives will go into other services, and gradually the least efficient and oldest will be retired.

17712

Wittke says that Research Department of I.R.T. has made several very large studies of cost of moving traffic in various over certain areas, and the more of them you make the more familiar you become with your costs system and what you can do in different areas, but if there is any one commodity that he wishes to have studied in particular, they look at it from the standpoint of volume, whether it flows day after day or only once a week or once a month, the kind of equipment it uses, whether there is any for that equipment is a return investment or whether it has to be a special empty investment with special care, and the nature of the commodity, its density, its cost, and all of the various factors that a railroad has to face, because we are an insurance company against loss and damage as well as operating cost. Then they actually look at the particular line over which it is going to move, and so build the general accounts that they have by reference to their accounting department, and attempt to build up and so build up what are generally considered average costs over that particular line, under the temperature, the weather conditions and all that they have, and they build up a picture of actual cost, which is not accurate -- because no cost is ever accurate on a railroad; it can only be approximate, because there are so many variables -- but sufficient to show by how much your rate is, then the fixing of the rate is by W. Jefferson. Research Department can only give him the base on which it must be fixed.

17713

\$400,000,000 is gross capital required for initial improvement program.



19720

C.F.A. considers equipment trust is a very dangerous way of financing for continuing projects:

Equipment trust is very dangerous way of buying equipment because being that they are usually kept here, ten years, and as soon as you commence to get repaid ten, the first thing you know you are paying not only the full amount, but interest charges as well. It then becomes a much heavier burden than if you were able to carry it by other means. It is resorted to for just buying what it is desirable, but not as a general standard practice.

Witness states interest rate on equipment trusts varies a great deal, depending on nature of equipment and other considerations - does not know exactly but very very from 25 to 35.

19721

Rate now being paid by C.F.A. vary in majority from 40 to 70 cents.

19721-2

Research Department of C.F.A. has made a study of agreed changes for traffic department.

19722

Witness states Research Department of C.F.A. have just made general studies, that is summarizing what has transpired in the United States, with the growth of highway traffic and what has happened. They compare present our conditions with those in the U.S. because density of population and the volume of highways is altogether different from Canada. But give general studies of sort of their present lines they know that sort of the sort of moving freight on present lines is complicated, and they now now in general that a great deal of their intention must be concentrated in the years to come on those comprehensive lines, which railway has to move, to see how they can best be fitted into general transportation picture.

19723

Referring to heavily dissatisfied Southern Railway system witness says of 4,900 new locomotives purchased since the war, 4,500 are discarded.

19729

Says C.F.A. still suffers from shortage of some kinds of equipment, e.g., box cars and refrigerator cars and long machinery flats, also covered hopper cars.

19730

According to studies made by Research Department of C.F.A. agreed changes are quite conservative, most of them equal to or above average revenue per ton mile that the railway gain.

19740

States there is collaboration in general between C.F.A. and C.N. They keep together pretty closely, are bringing out some specializations for best cars. They are collaborating together more closely all the time - very good spirit of co-operation between the railways.



In competition - witness states there can be competition for sale of goods, but planning and equipment and all the rest are problems which are common and U.S. and U.R. like to pool their ideas and knowledge.

17761 witness Professor J. L. Macdonell.

17762 Dr. Evans for U.S.A. referring U.S.A. Brief at page 22, page 1

The important fact, is not whether the area has such facilities, is the economic sense, but whether balancing advantages against disadvantages, the community is able to participate fully in the economic relief of the nation.

17763 U.S.A. witnesses points out that country could be  
to provided with transportation. That is essential to  
17764 full development of resources, and should be accomplished with the least possible expenditure of labour.

witness states setting of transportation charges to accomplish this result is a highly complicated process. any reduction in transportation charges which does not result from a reduction in cost cost is not of itself advantageous. In fact, it might produce even worse disadvantages to the nation as a whole than those which arise from geography.

witness says if reducing the disadvantages which flow from geography by reducing transportation costs, to be discussed, one must as well consider the extreme case in which transportation becomes a free good.

17765 witness agrees that if you had free transportation you would not obviously have any differential between the manufactured and raw materials, e.g., timber.

17766 Dr. Evans for U.S.A. examining Professor Macdonell says: "Now, I think we all remember, Dr. Macdonell, that there are people whom their geographic disadvantages are not actually aiding for free transportation. I presume that what you have been saying is that even even in that situation, whether by subsidy or by forcing the railways to carry goods at government rates, is a tendency toward that wasteful condition of which a perfect example is free transportation".

17767 The witness thinks the only way to reduce transportation charges is by a reduction in real transportation costs -- real, that is, in the sense of their use of physical resources for their production. I think that any other plan is not only wrong in principle, but would be self-defeating in practice.

17768 witness thinks that in attempting to remove transportation disadvantages as small and by trying to remove transportation advantages.



Cal 94

17763

Professor McLaughlin believes transportation should be provided on a basis broadly related to entire cost of producing it and modified by consideration of the various forms of traffic to bear these costs.

17764

Refers to C.F.A. Submission where it is stated as follows:

"31. Canadian Pacific submits that national transportation policy should aim at the maintenance of facilities adequate to serve at all times a freely growing national economy. Total transportation costs should be as small a part as possible of total national income and should make no unnecessary or uneconomic use of labour or materials.

32. Further, if it is decided that any industry or any part of Canada is to be assisted at the cost of the whole nation, subsidies, if and when given, should be certain in their effect and flexible in their administration. Transportation subsidies are, by their very nature, unable to meet these tests and should therefore not be resorted to."

17770

C.F.A. Submission points out that Railway system was built after broad national policies were established. The railways did not initiate these policies, nor were they initiated for their benefit, e.g. Tariff Policy.

17771

Suggests that trade in Canada would still tend to move East and West not North and South in respect of many important commodities, even if Canada engaged in economic union with the United States and suggests that experience of United States supports this view.

17772

Refers to United States experience and points out that it is only after you get down to Kansas City that you find the transportation economy in the United States with some elements of a general north-south tendency.

17773

Witness thinks railways have gone as far as they can to correct any disadvantages from which Maritimes suffer.

17774

to  
17775

Refers to C.F.A. Submission and statement that burden of overcoming disadvantages of unproductive area north of Great Lakes is no greater than if alternative route south of Great Lakes had been used.

Points out that this burden has not caused railway rates between Central and Western Canada to be as high as those on more fortunately situated railway lines in United States.



17776

Witness suggests that disadvantages to Canadian railways does not arise so much from past national policy, but rather from delays in adjusting freight rates in periods of general increase in prices.

17777

Witness thinks major problem of transportation in Canada today is that of permitting railways to participate in national prosperity exactly as they are compelled to share in national difficulties.

17778

C.P.R. submits that any subsidy granted by Dominion Government for the relief of economic and geographic disadvantages should be distributed to all economic interests within the area according to their needs.

17779

C.P.R. opposed to transportation subsidies since such a system while possibly stimulating certain forms of economic activity may actually deter the creation of a full rounded economy.

Transportation subsidies are likely to result in vicious competition between various areas, transferring transportation costs from those who use transportation to the taxpayers at large.

17780

C.P.R. opposed to principle of transportation subsidies.

17782

Suggests in the case of certain grain subsidies that if such a subsidy is necessary the way to do it is to subsidize the industry, and not by paying part of transportation costs.

17783

Witness is not in favour of subsidies being distributed by authorities who see the need for such subsidies.

17783

Reiterates views re transportation subsidies and C.P.R. objection to same. Does not think N.Y.C. is suitable body to distribute subsidies. Does not think railways should be compelled to assume that responsibility. Thinks subsidies are bad per se, but they are less offensive when they are distributed by local authorities.

17782

Refers to C.P.R. submission dealing with incidence of freight charges, where it is pointed out that such incidence is on economy as a whole; that it is totally impossible to draw lines on the map, or to establish distinctions between groups or individuals, and to assert that this area, that group, or a certain type of individual is more burdened by transportation costs than is some other.

Points out transportation is one of the costs of production and that in the long run it is borne by the consumers.



177793

In the short run, when demand is strong, then the whole cost of production will be passed on by the producer to the consumer. When the demand is weak the producer may not feel able to do this, but in such circumstances the price which he obtains will be set by general market conditions, and a reduction in transportation charges will not be left in his hands.

Does not think that general statement to the effect that farmers pay all freight charges on what they produce and on what they consume is correct.

177795

Opposed to cost-of-service principle and does not think that Canada would put up with such stringent limitations on development of new areas as this concept would involve.

177796

Thinks cost-of service principle would have a serious effect on any established industries in Canada.

177796

Thinks cost-of-service must supply the floor below which the rate cannot go; and actually the cost-of-service is a factor in establishing the total rate to come into consideration where the maximum rates are being considered. Suggests that total cost of service must always remain the ultimate limit in establishing rates; but the value of service is the working principle which sets the rates on individual commodities within those limitations.

17807

Witness suggests that any attempt to fix rates on the cost of service basis would end in addition to railway expenditures and a system of rates which might disrupt the whole economy of the nation, by stopping the movement of many sorts of low-value goods, and greatly reducing railway revenues and quite possibly forcing rates on high-value goods up to a prohibitive point.

17826

to  
17836

Refers to C.P.R. Submission where it is stated as follows:-

"42. Canadian Pacific submits that in order that rates be just and reasonable to the railways, the general level of rates should be such as to provide an equitable return on the investment in railway property used in transportation service.

43. The present jurisdiction in public utility regulation holds that historical book records of investment are the best evidence for establishing a rate base. The necessary data in regard to the investment of Canadian Pacific is available in the records of the Company. No need, therefore, exists for a prolonged and expensive investigation into the value of the property used in transportation service.

44. In establishing a fair rate of return, the matters to be considered include the need for raising new capital in the financial markets in competition



with other seekers of capital. In 1948 the rate of return obtained by the Company on its depreciation book investment in railway property was 1.78 per cent, whereas studies have shown that the cost of capital employed in the railway enterprise at the end of 1948 was not less than 6.52 per cent. The serious handicap facing the Company in raising new capital under present conditions is indicated by this comparison.

45. It is submitted that no amendment is necessary to the Railway Act of Canada to apply the principle of fixing general rate levels on the basis of a fair return on the investment in railway property used in transportation service. The determination of investment in such property and of the rate of return are matters which should properly be left to the Board of Transport Commissioners."

17827

Witness suggests that for economic purposes, an equitable rate of return is one which will cause market value of a capital investment which has been wisely and prudently made to be maintained at such level that new capital can be obtained to replace maturing issues or to provide for expansion on terms which will leave the owners of the older securities and the buyers of new issues receiving a similar return on their investments.

17834

to

17835

Witness suggests it is obvious that C.N.R. cannot be used as yardstick and that C.P.R. must be taken as its own yardstick or compared with other utilities with allowance made for the variability of income from year to year.

With regard to C.P.R. being its own yardstick, witness suggests that it should be a duty and responsibility of B.C.C. to investigate the level of rates under such circumstances.

Witness feels that competition being provided by trucking will be of assistance in providing necessary internal pressure on railways.

17841

Dealing with rate base and rate of return, witness suggests that the historical cost method of establishing a rate base does not in his opinion provide anything like an adequate rate base for the C.P.R. unless the rate of return is proportionately adjusted to the realities of the case. Thinks that at today's costs a railway property equal in capacity to that which C.P.R. has built up would result in a rate base which is much higher than is represented by the depreciated book value of the existing property. C.P.R. recommends use of the depreciated book value as only figure which can be practicably used as a rate base.

17845

Thinks an adequate rate of return is one which will permit the enterprise to obtain additional capital but that it must be related to the true present value of the investment.



17846

Thinks C. F. A. should have a rate of return for its shareholders based on the present cost of replacement of an equivalently useful property less observed depreciation. Refers to evidence of Dr. Borau in 204 case and of Mr. Forthey Jones and suggests that rate of return should be between 7.7 and 8.2% on the net railway investment of C. F. A. of somewhere between \$250,000,000 and \$1,100,000,000.

17847

Witness thinks that correct approach to problem is as set out in a publication, National Transportation Policy, published by the Brookings Institution which arrives at the conclusion that it should not be part of the duty of regulatory tribunals to fix maximum rates beyond fixing the maximum rate of return.

17848

Witness thinks that there would not be any abuse of monopoly power if high rates were exacted from the part of the traffic that is really a monopoly so long as the total returns to the railways were not excessive.

17858

Witness thinks that regulatory board would not step in except in two situations (1) if the net earnings of the whole system were above what was permissible, and (2) if an individual rate were discriminatory.

Witness also agrees that it is under those conditions that he is in favour of Crow's Best rates being put at disposal of B.T.C.

17866

On the question of public and private ownership of the railways, witness feels that it is desirable that the railways should be privately owned. He considers as primary reason the dangers that follow from the concentration of power. Does not think railways would remain self-supporting if they were to be regarded and dealt with by the Government of the day as mere instruments of national policy.

Thinks that is great danger in Government taking over railways.

17872

Witness thinks labour would be opposed to amalgamation since amalgamation might mean a reduction in the staff employed.

Witness points out that if all railways were Government owned that there might be short-sighted pressure to preserve the outmoded or to compel the introduction of additions which are uneconomic.

Also refers to likelihood of log-rolling between geographic areas to extort local benefits.



17872

Thinks that at the present time the existence of private competition as related to publicly owned property puts a certain natural limit to that kind of pressure which can be applied when there is full public ownership.

17873

Witness submits that if there were a railway monopoly there would be less interest on the part of management in correcting grievances with regard to the traffic and that management would be compelled to work against a body of employees who would be only too conscious of the monopoly power of the railways and whose unions would go far to fulfil theoretical gains.

17874

Witness agrees that under present situation there is little competition between railways in rates, but claims there is definitely competition in service and that this competition is protection for small shipper.

17875

Refers to U.S.A. Brief where it is stated as follows:

"Canadian Pacific believes that private enterprise in the railway field does require regulation, but that the need for regulation becomes less and less as the railways lose their position of semi-monopoly in the presence of increasing competition of other forms of transport."

17876

With motor carrier competition witness thinks it is obvious as well as inevitable that railways must be allowed to increase rates on their low-rated commodities to offset the loss of revenue on the high-rated commodities.



Val 95

17980

Professor McDougall points out that transportation is merely one small part of the total cost of getting goods from the point of production into the hands of the ultimate consumer. Suggests it has been given a much greater importance in public discussion than the facts warrant. Thinks public will gain more by encouraging technical development and correlative cost reductions by the railways than by trying to reduce railway earnings below a reasonable level.

17983

Does not think F.T.C. should be put in the position of having economic planning powers. Witness believes it is in a sense a Court, that it acts as between the railways on the one hand and the general public on the other, that it has an obligation to both and that its primary function ought to be in relation a) to discrimination and b) towards control over that element of monopoly power which comes when the earnings on the capital invested in the utility exceeds what may be regarded as the normal competitive return.

17985

Witness suggests that when a Government, that has the object of setting policy, inflicts disarray it is in a very weak moral position when it turns around and tries to hold a public utility to a return upon original cost in dollars of lesser value than those which now circulate.

17986

Witness thinks that C.P.R. should be used as yardstick since it is the only large privately owned railway and that C.N.R. cannot be yardstick.

17989

Witness thinks the proper method for general increases in freight rates is by horizontal percentage increases.

17993

Witness thinks that regardless of who pays the freight bill in the long run it is, in a very real sense, borne by the consumer.

17994

The short-run effect of who pays the freight bill depends on the elasticity of supply and the elasticity of demand, i.e. whether it is the buyer's or the seller's market.

17994

In a seller's market the freight increases tend to be passed on to the buyer immediately, in a buyer's market they tend to fall on the seller, i.e. the consumer gets the advantage in the buyer's market.

18007

Witness Mr. P.C. Armstrong, called on behalf of the C.P.R.

18030

Witness is asked whether an increase on the rate on grain to Fort William would lower the price to the western farmer. The witness answers "No. If we were still selling grain as we used to sell grain at one

Val 96



time, on a grain exchange at Winnipeg, or even on a grain exchange at Liverpool for that matter, if that were the condition, then I would say that a reasonable increase in the export rates on wheat would not necessarily lower the price to the western farmer."

18060  
and  
18061

.....Now, it should be very clear that if at this minute you increased the freight rates on wheat to Port William and Vancouver it would be equivalent to a reduction of the price received by the farmers in Western Canada at this minute, and as long as a fixed price lasts."

18061

Witness thinks a subsidy of any kind to production tends to keep marginal producers in production.

18062

Thinks that broadly speaking, it would be to the benefit of the efficiency of wheat production, to the benefit of the efficient farmer in Western Canada over a period of years that sub-marginal producers should not be encouraged to grow wheat by any economic devices such as export bounties. Suggests Brown's West Coast Train Rates are an export bounty.

18063

Suggests that no decrease in freight rates is likely to be of use to the Canadian farmer while a definite increase would not possibly damage his interests at any time.

18073

Witness states that the total cost of transportation includes the motor movement to the country elevator, i.e. the motor truck movement off the farm. Thinks motor truck rate is quite a factor in the total transportation cost although the public seldom if ever sees it mentioned presumably because there is no great indignation against motor truck rates.

Witness suggests that transportation cost by truck averages one-half cent per bushel per mile. This contrasts with the one-half cent per ton mile that the railway hauls grain for.

18074

Witness refers to movement of grain from Western Canada.

Witness refers to truck movement to rail; rail movement to Port William and water movement from Port William.

Witness suggests that it is not possible to regard it as of vital importance to the Western farmer to control the rail components of the movement in Western Canada while the large and more important water rates are not controlled.

18085  
and  
18086

Witness refers to average rate on wheat from Western farms to water in Canada is 12¢ per bushel



for an average haul of 750 miles. For a smaller haul in the United States the average rate is certainly more than twice that.

The present situation in which the farmers of the Western United States are getting more for their wheat on the farm than Western Canadian farmers although freight rates in the United States are at least twice as high as in Canada, would certainly go to indicate that rail rates are not the major item in fixing the price which the farmer gets for his wheat - they are an insignificant part of it.

18105

Witness says "that abnormally low freight rates on wheat are a clumsy, inadequate, ineffective method of giving assistance to wheat growers in Western Canada. It is uncertain and most improbable that any reasonable increase in these rates would actually be paid by the farmers. Any alterations in rates charged on export wheat from Canada are far more likely to be absorbed by ocean carriers than to affect the pocketbooks of Western grain growers. If protection for the Western farmer against price disaster is required, it should not be, in my opinion, in this direction."

Witness agrees that in an emergency such as the wheat emergency which Canada has had in the past there may have to be subsidies but suggests that this should not be given through the railways.

18106

Witness refers to fact that Prairie Provinces brief dealing with Crow's Nest was agreement points and that it was suspended in 1913. Witness claims that it was never brought back even into theoretical effect and that it was replaced by an entirely new system of rate regulation having no relation to the former Crow's Nest agreement.

18182

Witness claims it is impossible to establish a fixed rate that transportation rates must automatically rise and fall with fluctuations in the general price level. He qualifies his remark, however, by stating that there must be some such general relationship.

18179

Witness claims that railway wage levels should be in accordance with the economic levels in general. Freight charges are not paid by one particular group of a community. They are paid by the community at large and in some cases they are paid by others in other countries.

18180  
18181  
18182  
18183  
18184  
18185  
18186  
18187  
18188  
18189  
18190  
18191  
18192  
18193  
18194  
18195  
18196  
18197  
18198  
18199  
18200  
18201  
18202  
18203  
18204  
18205  
18206  
18207  
18208  
18209  
18210  
18211  
18212  
18213  
18214  
18215  
18216  
18217  
18218  
18219  
18220  
18221  
18222  
18223  
18224  
18225  
18226  
18227  
18228  
18229  
18230  
18231  
18232  
18233  
18234  
18235  
18236  
18237  
18238  
18239  
18240  
18241  
18242  
18243  
18244  
18245  
18246  
18247  
18248  
18249  
18250  
18251  
18252  
18253  
18254  
18255  
18256  
18257  
18258  
18259  
18260  
18261  
18262  
18263  
18264  
18265  
18266  
18267  
18268  
18269  
18270  
18271  
18272  
18273  
18274  
18275  
18276  
18277  
18278  
18279  
18280  
18281  
18282  
18283  
18284  
18285  
18286  
18287  
18288  
18289  
18290  
18291  
18292  
18293  
18294  
18295  
18296  
18297  
18298  
18299  
18300  
18301  
18302  
18303  
18304  
18305  
18306  
18307  
18308  
18309  
18310  
18311  
18312  
18313  
18314  
18315  
18316  
18317  
18318  
18319  
18320  
18321  
18322  
18323  
18324  
18325  
18326  
18327  
18328  
18329  
18330  
18331  
18332  
18333  
18334  
18335  
18336  
18337  
18338  
18339  
18340  
18341  
18342  
18343  
18344  
18345  
18346  
18347  
18348  
18349  
18350  
18351  
18352  
18353  
18354  
18355  
18356  
18357  
18358  
18359  
18360  
18361  
18362  
18363  
18364  
18365  
18366  
18367  
18368  
18369  
18370  
18371  
18372  
18373  
18374  
18375  
18376  
18377  
18378  
18379  
18380  
18381  
18382  
18383  
18384  
18385  
18386  
18387  
18388  
18389  
18390  
18391  
18392  
18393  
18394  
18395  
18396  
18397  
18398  
18399  
18400  
18401  
18402  
18403  
18404  
18405  
18406  
18407  
18408  
18409  
18410  
18411  
18412  
18413  
18414  
18415  
18416  
18417  
18418  
18419  
18420  
18421  
18422  
18423  
18424  
18425  
18426  
18427  
18428  
18429  
18430  
18431  
18432  
18433  
18434  
18435  
18436  
18437  
18438  
18439  
18440  
18441  
18442  
18443  
18444  
18445  
18446  
18447  
18448  
18449  
18450  
18451  
18452  
18453  
18454  
18455  
18456  
18457  
18458  
18459  
18460  
18461  
18462  
18463  
18464  
18465  
18466  
18467  
18468  
18469  
18470  
18471  
18472  
18473  
18474  
18475  
18476  
18477  
18478  
18479  
18480  
18481  
18482  
18483  
18484  
18485  
18486  
18487  
18488  
18489  
18490  
18491  
18492  
18493  
18494  
18495  
18496  
18497  
18498  
18499  
18500  
18501  
18502  
18503  
18504  
18505  
18506  
18507  
18508  
18509  
18510  
18511  
18512  
18513  
18514  
18515  
18516  
18517  
18518  
18519  
18520  
18521  
18522  
18523  
18524  
18525  
18526  
18527  
18528  
18529  
18530  
18531  
18532  
18533  
18534  
18535  
18536  
18537  
18538  
18539  
18540  
18541  
18542  
18543  
18544  
18545  
18546  
18547  
18548  
18549  
18550  
18551  
18552  
18553  
18554  
18555  
18556  
18557  
18558  
18559  
18560  
18561  
18562  
18563  
18564  
18565  
18566  
18567  
18568  
18569  
18570  
18571  
18572  
18573  
18574  
18575  
18576  
18577  
18578  
18579  
18580  
18581  
18582  
18583  
18584  
18585  
18586  
18587  
18588  
18589  
18590  
18591  
18592  
18593  
18594  
18595  
18596  
18597  
18598  
18599  
18600  
18601  
18602  
18603  
18604  
18605  
18606  
18607  
18608  
18609  
18610  
18611  
18612  
18613  
18614  
18615  
18616  
18617  
18618  
18619  
18620  
18621  
18622  
18623  
18624  
18625  
18626  
18627  
18628  
18629  
18630  
18631  
18632  
18633  
18634  
18635  
18636  
18637  
18638  
18639  
18640  
18641  
18642  
18643  
18644  
18645  
18646  
18647  
18648  
18649  
18650  
18651  
18652  
18653  
18654  
18655  
18656  
18657  
18658  
18659  
18660  
18661  
18662  
18663  
18664  
18665  
18666  
18667  
18668  
18669  
18670  
18671  
18672  
18673  
18674  
18675  
18676  
18677  
18678  
18679  
18680  
18681  
18682  
18683  
18684  
18685  
18686  
18687  
18688  
18689  
18690  
18691  
18692  
18693  
18694  
18695  
18696  
18697  
18698  
18699  
18700  
18701  
18702  
18703  
18704  
18705  
18706  
18707  
18708  
18709  
18710  
18711  
18712  
18713  
18714  
18715  
18716  
18717  
18718  
18719  
18720  
18721  
18722  
18723  
18724  
18725  
18726  
18727  
18728  
18729  
18730  
18731  
18732  
18733  
18734  
18735  
18736  
18737  
18738  
18739  
18740  
18741  
18742  
18743  
18744  
18745  
18746  
18747  
18748  
18749  
18750  
18751  
18752  
18753  
18754  
18755  
18756  
18757  
18758  
18759  
18760  
18761  
18762  
18763  
18764  
18765  
18766  
18767  
18768  
18769  
18770  
18771  
18772  
18773  
18774  
18775  
18776  
18777  
18778  
18779  
18780  
18781  
18782  
18783  
18784  
18785  
18786  
18787  
18788  
18789  
18790  
18791  
18792  
18793  
18794  
18795  
18796  
18797  
18798  
18799  
18800  
18801  
18802  
18803  
18804  
18805  
18806  
18807  
18808  
18809  
18810  
18811  
18812  
18813  
18814  
18815  
18816  
18817  
18818  
18819  
18820  
18821  
18822  
18823  
18824  
18825  
18826  
18827  
18828  
18829  
18830  
18831  
18832  
18833  
18834  
18835  
18836  
18837  
18838  
18839  
18840  
18841  
18842  
18843  
18844  
18845  
18846  
18847  
18848  
18849  
18850  
18851  
18852  
18853  
18854  
18855  
18856  
18857  
18858  
18859  
18860  
18861  
18862  
18863  
18864  
18865  
18866  
18867  
18868  
18869  
18870  
18871  
18872  
18873  
18874  
18875  
18876  
18877  
18878  
18879  
18880  
18881  
18882  
18883  
18884  
18885  
18886  
18887  
18888  
18889  
18890  
18891  
18892  
18893  
18894  
18895  
18896  
18897  
18898  
18899  
18900  
18901  
18902  
18903  
18904  
18905  
18906  
18907  
18908  
18909  
18910  
18911  
18912  
18913  
18914  
18915  
18916  
18917  
18918  
18919  
18920  
18921  
18922  
18923  
18924  
18925  
18926  
18927  
18928  
18929  
18930  
18931  
18932  
18933  
18934  
18935  
18936  
18937  
18938  
18939  
18940  
18941  
18942  
18943  
18944  
18945  
18946  
18947  
18948  
18949  
18950  
18951  
18952  
18953  
18954  
18955  
18956  
18957  
18958  
18959  
18960  
18961  
18962  
18963  
18964  
18965  
18966  
18967  
18968  
18969  
18970  
18971  
18972  
18973  
18974  
18975  
18976  
18977  
18978  
18979  
18980  
18981  
18982  
18983  
18984  
18985  
18986  
18987  
18988  
18989  
18990  
18991  
18992  
18993  
18994  
18995  
18996  
18997  
18998  
18999  
19000

Witness gives as his reasoned opinion that on all movement of wheat and wheat flour and milled feeds in the U.S. prevailing rates will be at least twice as high as in Canada. Thinks that if it was possible to take the entire freight earnings of all the U.S. railways



on wheat flour and milled feeds and divide this figure by the total volume of wheat sold off farms in the U.S. and shipped by rail the resulting average rail transportation charge would be at least twice as high as that now prevailing in Canada.

18243

Witness summarizes his evidence on Crow's Test cases under three points as follows:-

1.- The Western briefs all contend that export grain rates are sold by the farmer. The witness thinks he has demonstrated this to be not automatically true.

18245

2.- Considers the question of whether the existing grain rates are fixed by the Crow's Test Grain Rates Agreement or not.

Witness says this is a legal point and that he was discussing it as an Economist.

18247

Points out that the economic level of the existing grain rates does not result from the Crow's Test Agreement. In other words, aside from the legal point he says that from an economic aspect the Crow's Test Case Agreement is not the factor.

18249

and

18248

3.- Throughout the Western briefs there is the repeated statement that any alteration in the existing grain rates would introduce instability into the Western Canadian economy. He also refers to the fact that the people who have filed these briefs have welcomed more and more warmly the negotiation of the existing International Wheat Agreement. Witness says that the International Wheat Agreement is a degree of instability far in excess of any rates would probably be introduced by repealing the statutory provisions in respect of the existing grain rates.

18273

C.F.A. contends that the grain rate should be fixed on the value of service principle. The Chairman points out that on this basis the B.T.C. would have before it the value of service established, and would therefore fix a just and reasonable rate having regard to the fact. The C.F.A. agrees with this suggestion. The Chairman goes on to point out that the question still remains unsolved; who would bear the increase no matter how reasonable it might be, having regard to the value of service? Would the shipper bear it or would the receiver bear it?

18275

The witness refers to the free movement of grain and says "When you speak of the term 'freely' as related to the movement of any commodity you must have regard to the point at which it moves freely, that the rate which will provide a compensatory level at the minimum, and such contribution above that as will maximize the net to the railway. That is subject to a further limitation.... The application of that theory to all rates could produce



too much revenue to the railways so that the selling is provided by the permissible earning power of the Railways."

12332 Witness contends that in a buyer's market there is no way of subsidizing the Western Farmer by reduction in freight rates.

12334 Witness points out that in his opinion Crow's West Pass Grain Rates are an attempt to pay an export bounty which fails to be successful in a buyer's market.

12337 The witness, his asked if he recognizes the Crow's  
and West Rates as a subsidy to the Western farmer. He  
12338 replies that it is an attempt at a subsidy which is self-defeating and goes on to suggest it is a clumsy, inadequate attempt to give assistance.

12340 Witness gives as his opinion that as long as there is an international agreement for bulk sale of wheat which prescribes a fixed price at Port William, regardless of the price it is quite probable that the farmer will pay an increase in freight rates at least until such time as that Agreement is re-negotiated.



Vol 98  
18873

submission of Canadian National Railways.

Mr. Donald M. Gordon, President - Witness.

18874

Statement by Mr. Gordon points out that their Committee deals in general terms with a national transportation policy and suggests that this Committee presented to Parliament the definition of such a policy. Suggests that hearings before this Committee have indicated the desirability of properly co-ordinated and fairly regulated services embracing every form of transportation.

Importance of the railways in the national transportation field cannot be exaggerated. They are of prime importance from the viewpoint of national development and national defence.

Each form of transportation should perform the function for which it is best adapted if Canada is to have the most efficient transportation system.

18875

Claims it is essential that other modes of transportation should not be permitted to continue competition in an unfair and unregulated manner with the railways in the field in which the railways beyond doubt are the most efficient and economical agency.

Regarding capital structure of the C.N.R., Mr. Gordon claims that a study of this subject will demonstrate that by comparison with other railways an undue proportion of the capital of Canadian National is represented by interest bearing securities.

18876

A realistic capitalization of the C.N.R. must of necessity be related to its future earning power.

Refers to highway competition and suggests that this will tend to increase and will divert from railway earnings the higher grade traffic from which most net earnings arise. Also ~~suggests~~ to be considered is the fact of other competing forms of transportation such as air transport and coastal and inland waters transport.

18877

Claims that inflation bears with particular severity on the Canadian National railway by reason of its relatively low traffic density.

Refers to construction of additional branch lines to develop natural resources of the country. States such lines are expensive to construct and while they may be justified by the anticipated increases in national wealth and national income, they are not likely for many years to produce sufficient railway earnings to pay the additional **expenses** which they entail and the interest and depreciation on their capital cost.



12074

refers to fact that in some years the railways properly would do no better than meet its operating expenses whereas in good times it could be reasonable to expect fairly substantial earnings. For a properly working these characteristics it would be logical to consider that all of the capital should be in the form of equity and that none of it should be interest bearing. The interest bearing securities of the C.N.E. amount as at 1943 to \$1,384,000,000 of which \$345,000,000 is held by the Government and \$334,000,000 is held by the public.

12075  
and  
12076

refers to interest bearing obligations assumed with acquisition of insolvent railways.

The Canadian Northern and Great West Railway systems when taken over by the C.N.E. had \$304,000,000 of interest bearing debt. It is suggested that some proportion of this large amount of fixed interest bearing obligations might properly have been written off or reduced to equity capital as a result of bankruptcy proceedings, if that course had been followed.

When these railways were taken over there was no hope of substantial profits capital - the carrying capacity of the property was without promise and hundreds of millions of dollars would have had to be invested to take care of the backlog of deferred maintenance, necessary improvement and re-orientation costs. Under these circumstances witness claims it seems reasonable that the entire amount of the fixed interest bearing obligations should be converted into equity capital.

12082  
and  
12083

refers to run-down and semi-ruined condition of properties taken over. A great deal required to be done to take care of rehabilitation and construction on the lines of the Canadian Northern and the Great West systems at the time of acquisition. Most of the expenditure was chargeable to operating expenses but inevitably a proportion of it was of a capital nature. Witness suggests that of the amount of \$705,000,000 net investment expenditures of the system, 1943-1947, is a reasonable estimate for at least \$100,000,000 represented necessary improvements to the property which did not add to the earning power of the system.

12084  
and  
12085

refers to re-orientation costs - re-orientation, it is estimated, has required the expenditure of \$40,000,000 for rail-line conversions, belt lines and terminal rearrangements.

There are 3520 miles of line on the Canadian National which were originally designated as main line and which in the process of co-ordination have been reduced to secondary lines. The maintenance and operation of these lines is a burden upon the C.N.E. even when allowance is made for their use as secondary and branch lines.



It is estimated that the burden constitutes an operating disability in excess of \$5,000 annually or an equivalent capital disability of \$250,000,000, which in a sense is, and for convenience might be described as negative capital. This amount together with the money expended upon so-called projects, totals \$250,000,000.

10332  
and  
10333

Refers to Canadian Government Railways and the fact that they constitute a considerable portion of the C.N.R. System. Prior to formation of the Canadian National System and the entrustment to it of the Canadian Government Railways capital for these lines was provided by the Government free of interest. During the years of administration by C.N.R. a change was made and the system has since been burdened with interest-bearing capital for additions and betterments and for rolling stock, which at the present time has accumulated to some \$110,000,000.

Refers to transfer fund applicable to Canadian Government Railways and the fact that it is more expensive to support than the general pension fund of the C.N.R. to the extent of an equivalent capital amount of \$25,000,000. Taken in conjunction with the \$110,000,000 above mentioned, makes a total of \$135,000,000.

Witness points out that while it is reasonable that the Canadian National be relieved of capital expenditures on the Canadian Government Railways and of their extra pension costs, it is considered that if the measures recommended in the C.N.R. submission for the reorganization of the capital structure of the C.N.R. and the method of raising new capital are adopted no special relief should be claimed for these items.

us

10334  
-4-5

Refers to effect of acquisition of remunerative lines in national interest. These lines include Inverness Millway & Coal Co., Kent Northern, Caspe Lines, St. John & Quebec and Quebec, Montreal & Southern. The cost of acquisition and of rehabilitation has amounted to about \$15,000,000. Incorporation of these lines in the system increased operating expenses applicable to it by reason of the obligation to pay wages at system levels and to assume pension liabilities, while on the other hand rates for transportation service had to be reduced. The effect of these changes was decidedly adverse to the net income of the system and constitutes another example of what has been termed "negative capital". Suggests it is appropriate therefore to set by negative capital of \$15,000,000 which added to the cost of acquisition and of rehabilitation totals \$30,000,000.

Refers to Newfoundland Railways and suggests that this will burden the system income account to the extent of about \$4,000,000 yearly. Expressed in terms of negative capital this amounts to \$16,000,000.



refers to TransCanada Railway and says that this will constitute an additional burden on the C.N.R. and will adversely affect its net annual income to the extent of about \$150,000, the equivalent of \$5,000,000 in terms of negative capital.

The total of the capital items in this group is \$170,000,000.

Refers to effect of development lines.

Large amounts of capital have been spent upon development branch lines, the whole cost of which by necessity has been provided by the issue of interest-bearing obligations, whereas in sound financing procedure, a substantial percentage of the cost should have taken the form of equity financing. The amount so expended total \$22,000,000, and if a balance of 40% be taken as the amount which should represent equity capital, the capital burden of the Canadian National is in this respect excessive to the extent of \$8,800,000.

Contains a summary of the excessive capital burden upon the Canadian National system which is as follows:-

Interest-bearing obligations assumed with acquisition of insolvent railways	\$ 804,000,000
Run-down and semi-finished condition of properties taken over	100,000,000
Co-ordination costs	230,000,000
Canadian Government Railways	135,000,000
Effect of Acquisition of unremunerative lines in National interest	170,000,000
Effect of Development Lines	21,000,000
	<u>\$1,565,000,000</u>

Contains the recommendations by the C.N.R. with respect to the adjustments which should be made in their capital structure as follows:-

- (1) The \$750,000,000 of interest-bearing obligations held by the Government should be exchanged for equity capital and reflected in the balance sheet as such.
- (2) The Government should acknowledge an indebtedness to Canadian National in the amount of \$300,000,000 to bear interest at 3% until discharged. This would be set up in the accounts of Canadian National



as a capital fund to be drawn on from time to time to retire interest-bearing obligations in the hands of the public or for capital additions to the property. As consideration for the acknowledgment of the indebtedness aforesaid, Canadian National would issue a commensurate amount of equity stock to the Government.

- (5) Future development lines should be financed to the extent of not more than 50% by interest-bearing securities, the balance to be supplied by the Government against the loans by Canadian National of a commensurate amount of equity stock.

18388

Witness suggests that these measures, if put into effect, should enable Canadian National, on the average to meet its fixed charges including interest on funded debt.

Re: Surplus earnings.

Witness says that on the assumption that the proposals of the C.N.A. are implemented, it is not unreasonable to anticipate that C.N.A. in some years will have surplus earnings. Suggests that the task of management would be greatly eased if there was a recommendation from this Commission that the Board of C.N.A. use such surplus earnings (a) to provide sufficient funds to cover expenditures for non-revenue producing improvements and betterments; and (b) to establish a rate stabilization fund which it is hoped could be built up in good years and drawn upon in poor years with the view of affording stability to the rate structure and leading, to the extent of the fund from time to time existing, to postpone the necessity of applications for general freight rate increases.

18391

In the question of uniform accounting and statistical procedure C.N.A. submits that there should be a uniform system of accounts for Canadian railways and that such system should be prescribed in accounting classifications to be issued by the B.T.B. Also submits that there should be uniformity between the accounting regulations of Canadian railways and U.S. railways.

Considers that the classifications prescribed by the I.S.B. should be incorporated in any new Canadian classifications.

Submission of the C.N.A. resumed - witness Mr. T.C. Armstrong.

18421

Refers to C.N.A. brief and Appendix to Part II, page 17 where it reads: "Canadian Pacific submits that no useful purpose would be served through a study of unification of all railways under public ownership."



18412 Refers to page 14 of the Appendix to Part II of the C.T.R. Submission where it states "Canadian Pacific is opposed to the amalgamation of the railway of Canadian Pacific with that of Canadian National."

18413 Witness agrees that the railways no longer have a monopoly of transportation since there is competition from water and highways and air.

18414 Witness says if public ownership should lead to economic waste that it would be wrong. Witness is then asked if competition between a public railway and a private railway should lead to economic waste if that would be wrong and he replies that this would be wrong providing the economic waste was total social economic waste.

18415 Witness states that to his knowledge there is no political interference with the C.N.R. and that he has a high opinion of the officers of the C.N.R. and the work they do.

Thinks the dangers to which public ownership is exposed are lessened enormously when public ownership is operating a competitive utility instead of a monopoly.

18416 Refers to the fact that the great flow of traffic in both the U.S. and Canada is normally east and west, and would have been normally east and west, regardless of what particular tariff policy had been adopted.

18417 Witness says he is not attempting to argue that there has been no ill effect on the economy of the Maritimes from the tariff but he points out there has certainly been some good.

18418 Witness says that broadly speaking the Maritime Provinces are more likely than any other portion of Canada to have had their trade diverted east and west by the tariff; but that the amount of the diversion is probably not as important as is sometimes suggested.

18419 On the question of incidence of freight charges the witness suggests that if you start out with the assumption that in an absolute buyers' market the buyer pays all the freight rates and you operate with another assumption that in an absolute sellers' market the seller pays the freight rate then in between you have a degree of effect which changes as you move up in the intensity.

18420 Refers to about market and says it is definitely inclined to be a buyers' market because of the greater skill and the greater wisdom of the buyers as compared to the sellers. Thinks the sellers have been inclined to be too timorous, and believes that almost any alteration in the transportation charges will ensure to the advantage or disadvantage of the buyer and not to the seller.



18454      Abolition of the Canadian National railways continued.

Mr. J'Donnell refers to C.N.R. publication, page 73 dealing with the general desirability of adjustment in the capital structure.

Statement in C.N.R.

18455      Refers to publication "continuance of deficits which are not of the management's making and which are beyond the management's ability measurably to reduce, will certainly result in destroying incentive."

18456      "The present financial structure of C.N.R. is not only unsound and confusing but it throws a false light on the operations of the system and obscures its true value to Canada. This condition is greatly aggravated by the losses attendant on the operation of the lines in the national interest."

"It is necessary that the public should understand that the C.N. is not only a business enterprise, but, equally important, an instrument of national policy in the execution of which it is expected to operate extensive mileage and other facilities which are not and cannot be profitable by ordinary standards of business. To this end, clarification of its position to the point where its annual results will provide an understandable picture by which the public can measure its operating efficiency, is essential."

18457      Mr. F.F. Cooper, Chief Accounting Officer, C.N.R., called as a witness.

18458      Mr. Cooper explains that the C.N. system includes a combination of some 80 to 90 companies, some of which are U.S. Corporations and others are Canadian - one company incorporated under the laws of France.

18459      Witness points out that the consolidated income statement and balance sheet for the railway system was put together in 1953 when it was decided to take up in their accounts the accounts of the C.N. Express, the accounts of the commercial telegraphs and subsidiary company operations.

18460      Witness points out that they consider system securities held in special funds as outstanding debt.

18461      Reference is made to perpetual debenture stocks showing a high rate of interest - 5% and 4% - and witness explains that the majority of these debenture stocks were picked up during the war period when about \$45,000,000 of these railway securities sold in the United Kingdom were repatriated. There are about \$17,000,000 of perpetuals outstanding at the present time.



18501  
and  
18502

Witness points out the C.N.R. takes the position that they should not be required to pay interest on the money spent on capital account for the Canadian Government Railways. Prior to 1923 the Government Railways never paid interest on its invested capital. In 1923 these Government Railways were entrusted to the management and operation of the C.N.R. The C.N.R. is only an agent of the Government for the management of the railway. The ownership of the railway did not change. Witness were to suggest otherwise why entrusting the management to an agent should make the agent responsible for interest which had never been charged when the Government itself operated the railway.

18503

Mr. O'Donnell refers to Section 6 of the N.F.R.A. dealing with the requirements of keeping separate accounts for the Eastern lines and showing any deficit in respect of the Eastern lines as a separate item in the estimates submitted to Parliament.

18504

Witness points out that the Eastern lines figures are merged in the system operating results but in the Parliamentary appropriation there is a separation made between the lines comprising the Eastern lines and the remainder of the System.

Witness says that Section 6 of the N.F.R.A. is a dead letter so far as the publication in system operating results is concerned, but it is not a dead letter in the way the deficit is voted in the Parliamentary votes. Witness states that he hopes that as a result of the deliberations of this Commission Section 6 of the N.F.R.A. shall be repealed since it serves no purpose and is just a nuisance.



Witness - F.M. Jumper - Examined.

10000  
by  
1/19/79

Witness says previous paid under I.C.R. pension fund are more generous than those paid under the new I.C.R. pension plan. The two plans are different in many ways and it is difficult to make complete comparison.

Under I.C.R. plan an employee who quits the service voluntarily and who has contributed 25 of his wages since January 1st, 1940, is assured of a pension equal to 1% per each year of service of his annual earnings in the last two years of service; whereas under the I.C.R. plan he would contribute 1% and receive a pension equal to 1% per each year of service of his annual earnings in the last 5 years.

Average monthly pension at end of 1945 is \$45.40 for C.N. For retired Canadian Government Railway employees \$24.51. Actuarial valuation of I.C.R. and F.C.R. pension fund shows liability of fund for present and future pensions to the extent that such pensions would be paid at expense of I.C.R. is \$10,000,000 or C.N. would be only \$10,000,000. Difference conservatively estimated in President's statement at \$20,000,000.

10010

Reference to President's statement re acquisition of communication lines in the national interest without any company records show the cost of such acquisition was \$10,000,000 and if cost of rehabilitation included - \$17,750,000.

Mr. Stansfield for I.C.R. quotes from Staff Report, page 28, as follows: "In 1943, the government acquired the New Brunswick and F.C.R. Railway. This railway was necessary to provide a connection for the I.C.R. main line. In 1943 the Quebec and Saguenay Railway was added to the Government Railways. Between 1943 and 1945, also other short railways were acquired by the Government, ending altogether an addition of eleven short railways to the Government Railways. In 1945, a further six short railways in Western Canada were taken over by the I.C.R. The total cost of these railways including the amounts spent on betterments and improvements amounts to approximately \$20 million".

10021

Witness agrees cost of lines including rehabilitation amounting to \$17,750,000 is all included in foregoing figure of \$77 million. As to \$100 million he states witness not for rehabilitation without any additional cost included in \$77 million.



10012 According to \$15,000,000 negative capital in Mr. Cullen's statement which states that figure with conservatism. Average net personal property contribution of 10 exceeds \$10 million as compared with \$10 million used in calculation.

10013 Witness says figure of \$4 million which Mr. Cullen's statement sets forth is progressive annual deficit which it is anticipated may result by reason of taking over of transportation railway and shipping services by U.S. is conservatively stated.

In acquisition of Canadian Railway, witness says Order-in-Council stipulates January 1st, 1941, as date of withdrawal to U.S. - no nothing in U.S. statute for said railway. Estimated annual deficit of \$100,000 is figure asserted by Mr. Fairweather.

10014 Says \$20 million expended as least those by U.S. can be verified.

10015 Witness thinks of least 25% of capital expended in the development of Canada, lines should have been of equity capital.

Witness thinks percentage of new financing to be represented by equity capital should be approximately 50%.

According to U.S.N. calculations for year 1941 the percentage of U.S.N. capital in the form of equity capital was 54.8%.

10016 Witness says estimated to 100 million to \$15,000,000 which was spent as least those which cannot with the Canadian Government railway, which he contends should have been interest-free capital.

10017 Witness says there is no shadow of doubt in his mind of his fact that the U.S. system as it was put together in 1941 was a collection of bankrupt or bankrupt rail-ways for which it was necessary to spend very considerable amounts to weld them into a unified transportation system and into a physical condition to meet the need of the country for dependable rail transport.

10018 Witness quotes from Judgment of Hon. Mr. Justice Gault of Supreme Court of Ontario in Inland v. Great Train of 21 September 1938, 1938 - with reference to liability of Great Train:

"It was stated, the Great Train was in no position to argue further away, they were under heavy obligation to the Government and were immediately insolvent, and I find this to be the fact."



10000

The Canadian Shipping witness quoted from President-Admiral report, page 111-

10001

to

10002

The Canadian Government witness also stated they were not and should be the whole thing would be the question of destruction of livelihood. Nevertheless their earnings were not sufficient to pay their operating expenses.

It is quite clear that the Canadian Government witness did not add to the evidence of early aerial system.

10003

Witness quoted from address of Dr. Barker, President of Chicago, Indianapolis and Louisville Railway System Southern Branch of American Society of England as follows:

"In the United States, the financial success of early railroad development was indicated through development in reorganization, and in Canada, the National Railways in the same period of all the corporate and financial changes of its predecessor companies. These changes were accompanied by an obligation to pay interest on the government advances that were made to cover all past deficits. This requirement produced obviously serious difficulties of interest because they pay which there was no offsetting income-producing assets. Sir Mackenzie made his witness Joseph Lambie who he indicated as require, as a condition precedent to acceptance of the franchise of the Canadian National in 1903, that the accounts be audited to a satisfactory standard with the fair valuation of the property and that adequate reserves be established to reflect the various depreciation of depreciation and obsolescence."

Witness situation should be cleared up now.

10004

Witness says Nelson's Bay Railway was operated under Department of Transport.

There difficulties for anyone reading report of I.C. to compile results of their and various statements of operating results. They should have happened since 1903 with some compilation of such a statement. Nelson's Bay Railway was in operation but was never put into service. Perhaps lines were taken out of service of N.C.R. They were available from July 1st, 1907, but were not used until as part of system January 1st, 1908. Operations by British Columbia but have added to their complications. There are extensive efforts to ensure that all positions accounts prior to 1907 must be reviewed if there is an



no consistent presentation of results conforming to the policy as directed by Parliament pursuant to that Act.

18542  
to  
18544

Was five year loss for Grand Trunk \$115,000; for Canadian Northern \$100,000,000; Canadian Government Railways \$2,500,000; Grand Trunk Pacific \$43,304,170.

No interest for Government loans included in those losses.

Witness says Canadian National had no particular objection to being charged with interest on loans for capital purposes; however, fast realized that by Capital Revision Act all interest was cancelled, loans for deficits were cancelled and loans for capital were converted into equity capital. By leaving interest on Government loans out of the results shown in this Commission of Canadian National have merely presented position on basis which the Capital Revision Act authorized.

If interest on Government loans included for five year period deficit would have been increased by \$71,700,000.

Total deficit for four railways at December 31, 1928, was \$304,531,931.

18545

Thinks one of reasons why Government loans for deficits and interest charges were permitted to pile up had to do with conditions which obtained between time Government assistance was first needed and when final control passed to Government. Canadian Northern, Grand Trunk Pacific and Grand Trunk then under private ownership; Government not then shareholder and realized that its loans should have priority before share capital. Certain securities were entitled to interest payments if net earnings available and amendment of interest charges on Government loans had effect of deferring interest on such securities.

18546

Thinks Boyton-Asworth Commission were of opinion while three railway companies were insolvent circumstances were unusual. Companies had broken down and Commission saw no way to organize new companies to take their place. Considered that for reasons of national credit Canada should assume responsibility for interest on securities of the companies held by public.



18548  
to  
18549

Witness quotes from Trayton-Ackworth Report at page xlvi as follows:

"It is clear that neither the Canadian Northern nor the Grand Trunk can at the present moment meet its liabilities. In the United States when a company is in this position it is placed in the hands of a receiver. and at this moment upwards of 40,000 miles of line are in that situation.

These companies have broken down. We see no way to organize new companies to take their place. Their only possible successor is in our view a public authority. We are confronted with a condition and not a theory.

But if two companies went into the hands of receivers, we cannot doubt that investors outside Canada would believe, however erroneously, that the Dominion Government had treated them badly, and that the result would be serious injury to the credit of the Canadian Government and indeed of all Canadian enterprises. And this result is one that, putting it on pecuniary grounds alone, the Canadian people should in their own interest spend a good deal of money to avoid. We therefore consider that Canada should assume the responsibility of seeing that the interest on these securities is met.

We recommend that the Government assume responsibility to the Dominion Railway Company for the interest on the existing securities of the transferred companies."

18550

Refers to letter from Sir Joseph Flavelle, Chairman of Board of Grand Trunk to Rt. Hon. Arthur Meighen, Prime Minister of Canada, August 12, 1931 recommending method of dealing with matter of capital structure of Canadian National.

18551

Refers to Annual Report of Canadian National for 1933 where it is stated that consideration is being given to policy to be followed with respect to capitalization of the system, and extent to which, if at all, the advances made and capital held by Government should be written down to a figure which may be regarded as consistent with the earning prospects of the railway.

Says interesting to note in these references no attempt made to indicate any action that should be taken with respect to those securities in hands of public. Always directed to amount of debt held by Government.



18553

In March 1933 Sir Henry Thornton advanced recommendations for revision of financial structure of Canadian National. Recommended interest on Government loans be cancelled, loans for deficits be cancelled, and that remainder of the loans should be represented by income charge bonds.

18554

Refers to report of Duff Commission paragraphs 26 and 27 where reported that if the capital liabilities of the system were adjusted to an earnings basis a very drastic writing down would be necessary. While Commission was of the opinion that the capital liabilities should be heavily written down they did not consider the time opportune but thought question should have early attention of board of trustees which it was recommended should be entrusted with controlling management of system.

18555

On March 21, 1933, Minister of Finance informed House that Government should implement recommendations of Duff Commission that sums which are required to meet deficits should be voted by Parliament.

18556

Witnesses emphasize that Capital Revision Act of 1937 was never intended to be a cure for all ills that beset railway's finances.

Notes letter dated January 15, 1937 from Minister of Transport to Mr. Hungerford of Board of Directors of C.N.R. with reference to their approval of draft bill for revision of the accounting set-up of C.N.R.:

"Your Directors will of course have the right at any time, to recommend additional measures along same lines".

18557

18

18554

Says matter of recapitalization has been under consideration on and off since 1919. There has been general agreement that railways debt structure far too heavy and that something should be done about it, but there has been a tendency to leave problem to someone else, or for another day. Principal difficulty seems to be related to railway securities held by public. No suggestion for relieving railway of principal and interest of these securities.



little doubt if Government held more and public less in 1937 larger measure of relief would have been given. Debt held by public heretofore been for against complete and satisfactory adjustment of capital structure of C.N.R. but President has now indicated how obstacle can be by-passed.

18666 witness says everything surrounding construction and development of cross-based railways runs counter to the idea that they should be expected to earn an interest return on their cost.

18670 Thinks section 6 of C.N.R.A. should be repealed as serving no useful purpose.

18671 Thinks great deal of misunderstanding as to effect of 1937 Capital revision, nothing more than partial adjustment confined to relationship between Government and Railway not extending to funded debt held by public. Thinks fact on adjusted basis fixed charges 234 gross revenues whereas ratio for C.N.R. 174 and Great Railroads 164 proof no effort made at that time to put Canadian National on comparable basis with other railroads.

18672 C.N.R. submits that the fact:

"that the Government may not receive a direct interest return on a capital investment does not mean that the capital is lost. The nation does not expect an interest return on its investment in highways, airports, and public works generally. No one thinks of the money invested in the Intercolonial Railway as having been lost. The Quebec Bridge, the Prince Edward Ferry, the post offices, the Welland Canal, may not earn interest on their cost but that does not change the fact that they are national assets."

18674 witness says Canadian National traffic increased  
to tremendously in war years. Average annual  
18675 revenue during war 1937 million, before war  
\$177 million.

C.N.R. have reduced fixed charges from their peak in 1932 by refunding at lower interest rate and during war years used surplus earnings to reduce principal debt.



To not miss an opportunity either at maturity or by calling an issue if terms permit, continuing to refuse interest rates. They were 3.30 in 1942 and 3.50 in 1943.

18577  
to  
18578

Pays fixed charge burden greatly in excess of earning power. Average earnings 130 million, fixed charges 180 million a year - 120 million in excess of break even point.

Measuring with break-even point provides no return on equity capital and nothing for additions and betterments. Additions and betterments often unremunerative and should not be compelled to borrow every cent on capital account. Prudent management will endeavour to finance betterments from net earnings or depreciation funds limiting resource to new capital for plant expansion. Railways generally placing greater reliance on internal sources for replacements and improvements.

Letter from decision of E.T.C. in C.C. case as follows:-

"I think that a railway is entitled to a reasonable surplus over and above fixed charges and dividends. A railway company, as in the case of other enterprises, should have something in addition to 'come and go on', to provide for contingencies and to help equalize the result of poor years with good years. And to have something, if necessity arises, to put back into its railway operation undertaking for the improvement of the services which it is required to furnish. That is apart from major capital requirements. This is how the Board viewed the matter in earlier decisions."

Pension costs in 1923 \$302,274, in 1943 \$11,302,247.

Adoption depreciation accounting for rolling stock has increased expenses of Canadian National.

18379

United States railroads looking to surplus earnings and depreciation to finance additions and betterments.

E.T.C. since 1923 has to borrow every cent spent on capital expenditure and pay interest on it. Knows of no other railroad anywhere that had to do this.



18580 Says railways unable to go into security market at all last few years.  
Additional revenues in 1949 \$101,000,000 - additional costs \$100,000,000 due to change in price level. Had to absorb imbalance of \$79 million.

18582 Says C.N.R. went farther into red in 1949 even though for first time gross revenues exceeded expenses.  
to  
18585 million.

Re Historical Note refers to main brief as follows:-

Says imbalance of \$79 million in 1949 is additional.

Thinks imbalance to be met substantially by changes in freight rates rather than by adjustment of fixed charges.

18589 If increases had been in effect for 1949 C.N.R. would have had additional revenue of about \$15 million.

18597 Capital expenditures of C.N.R. since amalgamation reduced to a per mile basis averaged \$1,511 per annum. For Class I roads was \$1,224.  
to  
18599

Costs per mile of road for C.N.R. averaged \$80,769 for Class I roads \$127,564, for C.P.R. \$86,051.

18607 Says C.N.'s proportion of total capital represented by funded debt dropped from 63.8 in 1932 to 62% in 1947 - U.S. roads dropped from 62.6 to 54.2.

18607a C.N.R. submission contains U.N. roads have followed  
to definite policy of reducing funded debt and interest  
18610 charges - particularly last 15 years. No relief available C.N. through bankruptcy. When system saddled with all debts of bankrupt predecessors meant indefinite term recurring deficits and no chance make surplus to reduce fixed charges. If same policy reduce fixed charges as other railways doing and fostered by U.S. Government then should be some arrangement that C.N.R. can do same. Legacy of past now bars way.

18611 Availability of Government credit only thing kept C.N. going.

18614 Revenue per passenger mile same for C.N.R. and U.N. Class I roads.

18624 Thinks figures prove conclusively that measured as a percentage of gross revenue C.N. fixed charges about



twice those of C.F.R. and class I roads.

In 1947, 1948 and 1949 only 4 railways in North America with larger revenues than C.N.

18631 Thinks ratio for C.N. completely out of line with other large railways in North America.

18632 C.N.R. submission re fixed charges.

to  
18643



Exhibit A-1

10000  
to  
10000

U.S.A. Subsidies to Capital Services Act 1977  
and Securities Trust Act.

Witness - Mr. J. E. Gough (Witness)

10000

Witness refers to Mr. Gough's statement with regard  
to proposed \$50 million capital fund which consists  
and following is what:

- (1) The capital requirements of the Canadian  
National in the next five years will  
amount to \$507,000,000. Of this amount  
\$15,000,000 is for additions and improve-  
ments, maintenance of new equipment;  
\$10,000,000 is for existing funded debt;  
and \$337 million is for funded debt which  
can be called during the period.
- (2) The existing debt which, including  
unpaid capital amounts to the two-year  
period is \$100,000,000.
- (3) The deficit, comprising interest on  
Government bonds, \$10,000,000, plus  
\$5 million (that is \$15 million)  
could be \$15,000,000.

Witness refers to the fact that the Canadian National  
is planning to present conditions which would be negotia-  
tion and the Canadian National railway would be able to  
be able to call on the Government at any time. In  
this case the railway is not in a position to call on the  
Government for the railway capital to call on the Government.

10000

It would be possible to call on the Government for  
which is \$10 million could be \$10,000,000.

10000

Witness refers to the fact that the Government would be  
willing to provide \$100 million for the railway for  
1977 to 1981.

10000

Witness refers to the fact that the Government would be  
willing to provide \$100 million for the railway for  
1977 to 1981.

10000

Witness refers to the fact that the Government would be  
willing to provide \$100 million for the railway for  
1977 to 1981 and that the railway would be able to  
call on the Government for the railway capital to call on the  
Government for the railway capital to call on the Government.

10000

Witness refers to the fact that the Government would be  
willing to provide \$100 million for the railway for  
1977 to 1981 and that the railway would be able to  
call on the Government for the railway capital to call on the  
Government for the railway capital to call on the Government.



Believes position of U.S.A. cannot be compared previously with that of another railway or organization.

10641 Says if rate structure would stand it would be return on equity capital, but does not think entire amount of capital is related to percentage rate of return, but also is related to small rate of return. On new capitalization the net income per mile would be three-quarters of one per cent on equity capital.

10642 Says three-quarters of one per cent was calculated without allowing for surplus of \$11,000,000 the United Railway should have.

Thinks surplus is return on equity capital.

10643 Thinks there was failure in U.S.A. situation which justify very high ratio of equity capital to total capital.

10644 Witness says in fixing amount of fixed charge debt must be regard for ability to service debt. If a re-capitalization program calculated to 1.0:1. they would want to determine amount of net savings available under all conditions. Would then fix amount of purchasable fixed charge debt. The only balance irrespective of proportion can take form of equity capital. No equity capital determined by protection and earnings offered by fixed charge debt, but more arbitrary proportion. In case of U.S.A. arbitrary relationship should not be used.

10645 Thinks into consideration ownership of C.N.R., that the fixed debt guaranteed by Canada. Fixed debt position depends not so much on ability to meet debt as on security of Canada behind their obligation.

Thinks there are advantages in having railway securities financed by public issue. Argues that other popular method financed by bonds and investment income. C.N.R. fixed capital of over one billion in 1928. Then \$300 million, now \$600 million.

10646 Thinks fixed charge-debt has definite bearing on capital structure of C.N.R. If not for government security all capital would be in form of equity capital as would would not justify fixed charge debt.

10647 Thinks amount of fixed charge debt should be first related to earning power of railway and balance should be equity.

10648 Says U.S.A. charges Wilson's big system but expenses and expenses are for amount of investment and do not enter into U.S.A. figures.

Thinks Wilson's say should be in National system provided arrangements available. Thinks all government owned railways should be in U.S.A. system.



Union Station's War Post building was then never completed and always operated as a temporary headquarters.

U.S.R. in position of agent or manager and get small fee for managing Union's Bay.

18708      Thanks all about ownership of U.S.R. should be in Canadian government.

18709      Witness says in 1918 U.S. had \$2.7 in form of equity capital and \$2.3 in form of interest-bearing debt.

18710      Witness agrees that with cumulative capital losses of \$1,000,000,000 proper capital after eliminating losses would be about \$200,000,000.

Agrees \$1,000,000,000 is more practically correct capital debt figure, including negative capital. Says it is really capitalization of an earned deficit in non-renewable parts of system. No suggestion total capitalization of \$2,118,770,112 too high.

U.S.R. maintains up good system total capitalization, but some equitable division of total capital needed between parties who carried fixed charges and that which does not.

18711      Dr. C. Russell for U.S.R. now not held by public  
to      (\$204 million out of \$760 million).

18712      Witness says if tied down to \$204 million balance held by public losses would continue and there would be only partial adjustment. Introduction of \$204 million is called by which U.S.R. can get around difficulty that has always existed in any attempt to adjust capital structure. Would be drawn on from time to time to reduce interest bearing obligations in hands of public or for capital additions to property.

If that adjustment takes place years ago and not been all taken up by debt retirement raised debt in hands of public would be down to where it should be.

18713      Witness says policy of U.S.R. is that if Government surrenders a line and take up all the capital that management after considering value of the line would have right to say "no". Witness agrees could say "no" to Government and still position with degree of strength.

18714      Witness says U.S.R. position is that if Government is willing about depreciation should be done by Government and should be on straight line method. Prefer there should be no depreciation accounting at all re railway property.

U.S.R. maintains both railways should have uniform accounting re railway property, meaning no depreciation accounting for railway property for either railway.



18721  
to  
18742

Agreement by witness re depreciation accounting and why two railways should be on same system.

18744  
to  
18745

Only objection to both railways using an different systems is that it was against principle of uniformity which was to have been. C.R.R. has no desire to limit their view on C.R.R. Strictly adhering that they say should be uniformity and should be on straight line method.

Witness does not think difference in two methods worth fussing about.

Would not be content to let Income Tax authorities prescribe type of regulation. In U.S. Internal Revenue Department have own rules and as not necessarily same as rules of I.R.C. There you have two different departments, one insisting one thing be done for accounting purposes and with respect to tax returns a different thing.

Witness suggests with respect to railway property might consider British method. Has reached no conclusion himself and thinks that under regulations called accounting expenses might be in cases of straight line or wear.

18747

Does not agree depreciation more practical provision to provide company paying income tax, witness knows that people were to refuse to allow depreciation charge not entered into accounts.

Objects to criticism because I.R.C. does not pay tax. Does not think tax burden compares to income burden I.R.C. has to carry.

18748

Witness agrees important thing is that both railways should be depreciating same assets.

18749

Says I.R.C. fears that regulatory authority might forbid any depreciation on them. Would fight that to very last.

18750

Witness agrees possible some comparison even though two agencies on different methods as long as they are same relevant for comparison.

Thinks couple of years of difference between wear and straight line might be equally as great as between depreciation and replacement.

18751

Witness thinks that increase in corporation and income profile tax after outbreak of war is one of things that led to depreciation accounting on railway property and suggests there is difference in cases of company that does not pay income tax.



Agrees the question is involved in subject of  
regulations governing for roadway property.

18762  
Q  
18763

Says there would be difficulty in controlling over  
owned in Canada.

Further reason witness agreed to say noted in that  
R.F.C. not sufficiently strong to control it.

Thinks if there is to be uniform accounting and it is  
to be enforced R.F.C. must be built up. Must develop  
having very capable accounting staff and engineering  
staff.

18764  
Q  
18765

Witness thinks R.F.C. is the body that should lay  
down rules re depreciation and uniform accounting, specify  
property subject to those rules and determine the rate.  
R.F.C. prepared to turn their charges before R.F.C.

Would urge straight line for equipment. Should  
no depreciation allowance for roadway. Thinks these  
accounts should be presented to R.F.C. and let them  
decide.

Does not think R.F.C. should give consideration to  
different position of R.F.C. a privately-owned enterprise  
and their tax position in each network.

Agrees both railways must depreciate same property,  
otherwise impossible make proper comparison.

Witness is in favor of a consolidated report.  
R.F.C. views to this respect not set in their mind.

18766-1

Witness says R.F.C. pays a lot of attention to  
individual corporations which make up R.C. system,  
because they have to put them together as if one  
corporation. Making no comparison is real difficulty.  
Since 1928 have presented affairs of National System  
as if all corporations had been consolidated.

18767

Dr. Evans for R.F.C. says there is no National  
Pacific Telegraph Company.

18768

Witness says R.F.C. accounts are published on  
consolidated basis. R.F.C. accounts are those of a  
private company.

Witness says consolidated reporting must not be  
maintained in accounting characteristics as is provided  
by R.F.C.

18769

Witness says R.C. does not provide uniform accounting  
and believes they are going to insist on all surveys  
furnishing consolidated statements in certain cases.

Says consolidated reporting is necessary as far as  
R.F.C. is concerned does not know whether R.F.C. reports  
on their present company basis are satisfactory or not.



That the U.S. should investigate rather than use of force  
involvement in uniform and military.

1972

At present there is some of the, however and U.S.  
experts have not discussed whether. U.S. should extend  
an economic aid. U.S. economic assistance program  
and transfer to railway company which was termed economic  
assistance, a kind of payment for facilities provided to  
railways. This amount taken into U.S. accounts for these  
rail line revenues. The U.S. have given revenues in the  
years revenues not express agreement to rail line revenues.  
U.S. have not figure into railway operating revenues,  
effect of not revenue is substantially when not used  
effect operation ratio as to whether taken in or given  
basis of not basis. An comparison of operating ratios  
between the companies the different method shows up  
unfavorably as to U.S.A.

U.S. should position that how these matters should  
be handled will be better for U.S.A. and they will abide  
by their legislation.



13787

and  
13788

Witness thinks it is highly desirable that the C.P.R. should continue to pay dividends on its common and preference shares and from his point of view hopes that that position will never be jeopardized. Says that C.P.R. should have as a comparable position would mean that in addition to the interest on their fixed debt they should pay a return on equity capital.

Mr. Severi suggests to the witness that to live and carry on the C.P.R. must have something in the vicinity of \$50 million.

13797

It is witnesses's opinion on looking at the record of the C.P.R. since amalgamation, taking the good years with the bad, that they average an annual deficit of \$30.5 million.

13798

Witness agrees that the tremendous increase in the population of the country to-day as compared with what it was during the first half of the period since amalgamation would also have a tremendous effect on the future of the C.P.R.

Witness says competition from trucks, buses and airways is one of the most serious problems for the future of the railways.

13799

Witness says 1931 will not be as good as 1930. For first two months of 1930 traffic has fallen off by 21.

In revising the capital structure of the C.P.R., in the view of witness, cannot take the results of the past 25 years as a guide and determine the adjustment on that by itself, and doubts very much if they can make an estimate of the future.

Witness says one of the variations that should be used in order to determine the capital debt of the C.P.R. would be to compare it with other Class I Railroads.

13800

Witness says ~~xxxxxx~~ the record of the past is a factor in determining a proper capitalization for the C.P.R.

13803

In 1932 the C.W. ratio was 34054, and they fell down just as other railways fell down, the reason being that the gross revenues increased. Expressed as a percentage then the fixed charges necessarily are on a reduced scale.

13805

Mr. O'Connell, on behalf of C.P.R., says rates have heretofore been fixed on the basis of requirements, and if the suggestion is that the basis is to be changed to a rate of return on a rate basis, then that gets to the position of determining what the proper rate base is. Thinks that is something that requires intensive study and points out that in their submission they made no request for anything of that kind at this time.



18806 Mr. Evans, on behalf of C.F.R., says they believe very strongly and must come to that basis for rate making.

18807 The Chairman says it is his understanding that the C.F.R. is prepared to leave the Act as it is, that is to say to leave it to the discretion of the B.T.C. as to how rates are to be arrived at; but that if anybody wishes to amend the Act, making rate base the compulsory method the C.F.R. will support it.

Mr. Evans agrees.

Mr. MacPherson thinks their position would be to leave it to the B.T.C. as it now is.

18812A Witness thinks C.F. present balance sheet truly represents their investment in property and that there is no necessity for any write-down.

Witness says that under the I.C.C. theory of accounting for investment, the books of the carriers must be stated at historical cost.

18812B In order to arrive at historical cost of the various properties that make up C.N. rail investment witness does not think that by going back as far as 1850 you could find any better evidence than is contained in the figures which are now in the C.N. returns.

18814 Witness says in making recommendations for the revision of the C.N. structure they have not considered its possible effect on the C.F.

Mr. O'Donnell points out that the C.N. has not asked to be made the yardstick and that they have not made that proposal anywhere for the purpose of fixing freight rates in Canada, and that such a result is not contemplated by the submission which they have put forward.

18816 Mr. Frawley submits that there should be no such a thing as a synthetic C.F.R. and it would be synthetic if it began to pay dividends to the Government of Canada.

18818 and 18819 Mr. Covert says if rate stabilization fund set up for C.N. would mean that C.N. would not be under the compulsion of initiating an application for increased rates. But if application were made whether or not C.N. joined in it and B.T.C. said "we will still use C.F. as the yardstick" then rate stabilization fund would continue to grow might it not be that public pressure, looking at C.F. profits, would insist on lower rates. Wants to know if rate stabilization fund of this kind might not lead to public pressure which would really make the C.F. the yardstick.

Mr. O'Donnell says that if the C.N. happened to be able to get a surplus, or to get moneys as part of the proceeds of just and reasonable rate, then so would every other railway in Canada. The C.N. should be permitted



to hold some portion of the proceeds of the just and reasonable rate which every railroad in Canada will have. The C.N.R. today is entitled to withhold such portion as it is able to save over and above paying its operating costs and its fixed charges and its dividend requirements. If there is anything left the C.N. as a matter of practice turn it over to the Government. The F.C. wishes to be able to retain some portion, if they have any, of the just and reasonable rate. There is one rate for everybody and every railroad will get money to the same extent as the C.N. Subject is really reserve fund. There has so far been no suggestion C.N. pay dividends.

18726

and

18727

Mr. Krawley refers to Mr. O'Donnell's statement that C.N. had never asked to be made the jurisdiction and refers to Mr. O'Donnell's statement in the ROR case, at Page 4104 and quotes from Judgment of the Chief Commissioner at Page 10 as follows: "However in view of the strong representations made by Counsel for the Canadian National Railways in his final argument that the increase in freight rates should substantially meet the requirements of the Canadian National Railways, I am of the opinion that the final determination respecting this application must await the findings of the Royal Commission on Transportation, and possibly the implementation of certain of these recommendations because one of the matters referred to it by Order in Council P.C. 8023, 1943, is to 'review the capital structure of the Canadian National Railway Company and report on the advisability, or otherwise, of establishing and maintaining the fixed charges of that company on a basis comparable to other major railways in North America.'"

18830

Witness says trouble in the past has largely been due to the fact that C.N. had nothing to come and go on. Under proposed revision, and granted good business conditions throughout the country, and granted a reasonable relationship between costs and revenues, they should have something to come and go on and it is by avoiding the necessity of continually borrowing debt for every cent of capital expenditure that they feel there will be some control over the fixed charge debt of the company.

Witness says if there were a depression and deficits occurred if they had a few years of reasonable net earnings which they were able to retain they would pay deficits out of the amount retained. There would be no necessity to go to Parliament. If they started off after the adjustment with deficit conditions, there would be no escape.

18831

Witness says could not issue funded debt to finance deficits and refers to Duff Commission where it stated: "Income deficits shall not be funded". That was one of Duff Commission major recommendations.

18832

In the case of a dieselization programme, instituted in a depression as a public works project, difference in position of C.N. and F.C. would depend on the degree to



which projected works deemed to be measures of public assistance as compared with ordinary railroad requirements: if considered by Government of the day to be in the interests of the nation to do things of that kind they would be done. If they were measures of public assistance witness thinks they would be more or less without interest to both companies.

18834

Witness thinks comparability of Canadian National fixed charges with those of other railways should be maintained.

18835

Witness says surplus earnings between 1941 and 1943 amounted to \$115,563,062 and those moneys were used to retire Government loans. That money was not used for capital expenditures but depreciation accruals amounting to \$117,503,140 undoubtedly were used to finance additions and betterments and that that is the proper procedure. This changes the statement on page 18578 of the transcript.

Witness says for period 1929 to 1939 net average deficiency 1908,000 a year on lines taken over in 1919. If this amount capitalized would be \$30 million but just taking \$18 million as conservative figure. Estimate so conservative because 1937 to 1939 poor years. Other considerations would be feeder value of these - lines to main railway system, which comes from traffic which originates or is destined to these branches.

18843

and

18845

Witness agreed that C.N. must operate as both a business enterprise and instrument of national policy. In his opinion it is both at present time and that it can then be put on comparable basis as to fixed charges with other roads.

18846

Witness says in the last analysis freight carries the load for the railways. In the case of C.N. did not make up deficits.

18846

Witness thinks if rates were fixed on the basis that "Requirements" were interpreted in the same way as C.N.R., meaning fixed charges, a return on equity capital, something to come and go on, perhaps position of the C.N. would be improved in the matter of its position in applying for an increase in rates.

18847

Witness does not think proposed re-capitalization affects requirements at all, if requirements include fixed charges and equity capital. It simply moves an item which is now a requirement under the heading of fixed charges into a requirement which would become a return on equity capital. Unless you change the definition of requirements as applied to the C.N. from what it has been interpreted as applying to the C.N. witness does not see that this proposal affects total requirements at all.

If C.N. requirements are used as C.N. requirements have been, and if requirements are defined as C.N.



requirements have been defined, it seems to witness that the need for a high level of freight rates would become apparent.

for the yardstick,  
stick,  
On the assumption that the C.N. is a part of the yardstick, as has not been suggested, it might mean that if a return is asked on the equity capital that the freight payer will be in a worse position than he was before in respect of applications before the B.T.C.

18848  
and  
18850  
Witness explains that centralized in the C.N. system to-day are all the small lines which were built back at the beginning of railroading in Canada in the 1840's. Their books of account do not exist to-day, nobody knows how they were compiled and they do not exist to-day, but these figures have been brought forward through the years and they are carried into the accounts of the C.N. at 1923 as they were found in the ledgers of the various companies and from that date the C.N. took full responsibility for them.

Before Page 44 of U.S. Brief - "Their accounting was not under regulatory authority". "It followed the judgment of the accountants or the policy of the owners. In transmission the investment account often was determined by the par value of the securities issued in exchange."

"All that one can claim then for the present ledger figures is that they are the historical costs, recorded by many persons, under different accounting theories, in many different books, over a long period of time. As such they should be preserved and continued."

This is of necessity the basis on which C.N. had to work in arriving at final total of \$2,000,000,000 for investment in road and equipment of the railway shown in Table 6, Page 43 of Brief.

18854  
and  
18851  
Funded debt of the Grand Trunk, Canadian Northern and Grand Trunk Pacific held by public as at December 31, 1923, 1904 million. Witness says this \$904 million should have been converted into equity capital instead of being continued as fixed charge capital so far as capitalization is concerned.

18856  
Witness says proposed capital revision of the C.N.A. has nothing to do with the determination of a rate base. It is really a transfer from funded debt to equity capital. It does not affect investment account at all and does not affect record of historical costs in any manner.

18857  
and  
18858  
Witness is asked if there is any useful purpose in keeping the 70, 80 or 85 companies operating apart from the U.S. It is not from desire but of necessity. In the case of the Canadian Northern, they have perpetual debenture stocks outstanding, and the consent of those debenture stockholders would be necessary for consolidation of Canadian Northern with C.N. Those debenture



stockholders would not give their consent to amalgamation unless they were given something, they would ask for a Government guarantee and the C.N. say they won't pay that price. Speaking personally the witness would like to see legislation pass vesting these perpetual stocks either in the name of the Canadian Government or the Canadian National Railway Company. This was done in Great Britain during the war. Witness something should be done about having these separate debenture stocks living in perpetuity.

18822

Witness says nothing can touch these perpetuals except legislation.

Asked if the Canadian National U.S. lines are profitable witness thinks as a broad answer the answer would be "yes".

18823

Asked if hotels have been remunerative over the years, witness refers to the question of usefulness to the system. The hotels as a rule were able to develop traffic for the system. The record of hotels over the last decade had been that they have made substantial net earnings, meeting revenues less expenses and taxes. If an interest charge and a depreciation charge were set up by themselves they probably would show that they had not been operated at a profit, but again you have this intangible value to the system. Referring particularly to the Statens Laurier, witness not only thinks of it as part of the system but as a national asset.

18821

Under new proposal as public debt matures it will be paid off out of proposed \$300 million fund and if portion of fund was restricted entirely to funded debt in hands of public in 10 years at outside \$300 million would have been drawn down and funded debt would have been reduced to that extent. An alternative is that \$300 million might be used in part for capital expenditures and effect would be instead of additions to the funded debt by utilization of the fund itself the funded debt would be held down. In other words witness agrees if debt in hands of public reduced by \$300 million would only have \$200 odd million.

18824

Witness says Government could not simply wipe off \$300 million of what C.N. pays public. Witness agrees if they were different securities which could be paid off that would be simplest way. Witness agrees plan really means that C.N. gives Government equity stock to face value of \$300 million.

18825

Government would have \$300 million of stock that had not paid for.

Refers to Drayton Report and says 1917 was time to get in securities held by public and pay them off. Would sound like confiscation now. Some securities held by public paying 3% interest. Some paying 8% now. C.N.R.



British

fortunate that during war, Government vested all the railway securities which were owned by U.S. residents. That has improved picture.

None of perpetual securities admit of refunding.

18868

C.N.R. has been doing its best to reduce actual fixed charges. Witness agrees it is because C.N.R. feel cannot make such progress quickly this way because of size of problem, they worked out scheme for Government to set up \$300 million and pay them \$9 millions a year which they will use either to retire interest bearing war obligations in hands of public or for capital additions.

18871

In regard to uniform accounting, witness says their position is this, "that now the question is put to us; do you think there should be a uniform system of accounts for Canadian railways? Then our duty says that our answer should be in the affirmative. But apart from that, we are perfectly satisfied to keep it as we are."

18872

Witness agrees that the need for uniformity is more important than which particular kind of accounting should be prescribed.

Witness agrees that the particular kind or method of accounting to be selected and prescribed should be left with the B.T.C. and further that there must be something in the statute, unless there is something already there, requiring the C.N.R. to set up a uniform classification of accounts.

18873

In regard to depreciation witness says on the question of which system of depreciation should be used, they would be prepared to present their views as to the straight line method and that they would be prepared to abide by whatever prescription came from the B.T.C. after consideration of the matter.

Witness does not think there should be depreciation accounting on roadways at all. Speaking of depreciable assets witness says a more exact meaning is "depreciable assets subject to depreciation accounting".

18880

Witness says there are depreciable assets, for example, ties, rails. They are subject to physical depreciation but they are not subject to depreciation accounting. In Canada the C.N. and U.P. do not depreciate rails and ties and that sort of track material. Witness says there should not be depreciation accounting for non-depreciable road assets.

18882

Witness says under the British system their expenditures would reflect the actual replacements and repairs made during that year. Witness doubts if there might be a great deal of replacement and repairs in any one year and very little in another because railways do



not work with any violent fluctuations from year to year. They have steady programmes of maintenance and repairs.

12834

Referring to unremunerative roads entrusted to C.N. witness, expressing his personal opinion because he is not authorized to speak for the railway is a matter of this sort, considers "that the Canadian National railway - that is the organization - is a servant of the state. Canada owns a number of railroads and Canada must have some agency, whether it is a department of government or the Canadian National organization, to operate the state-owned railways. In entrusting these properties to the C.N. organization for management and operation we take the position, and we take it strongly, that that entrustment should be under terms which are equitable to the railway, and that we should not have a repetition of what happened in 1929 when these five railways that we speak of, which were taken over as a matter of public policy, were just pushed over on to the railway company. We had to assume the fixed charge debt with respect to the purchase price. We had to spend sizeable amounts of money for the rehabilitation of the lines, and we have had to stand operating deficits which resulted from that matter of government policy."

12835

Witness says an ordinary commercial enterprise would not take over such things as Canadian government railways, the National Transcontinental Railway, the drydock at Prince Rupert, the Newfoundland Railway, without some sort of compensation.

12837

Refers to C.N.A. Act of 1927, Section 3 dealing with nomination of directors and section 19 dealing with the entrustment and management of certain roads.

12838

Mr. O'Donnell says statute in that and under the statute Government may entrustment of these lines or any works covered by that statute.

dispose

Refers to Mr. Gordon's Statement where it states as follows: "Insofar as he and his board of directors are concerned, is that they would not want to have imposed on them the management of any and all lines even if the percentage of capital was to be provided concerning these future developmental lines as is set out."

12839

Mr. O'Donnell says as he understands it, the Hudson Bay Railroad is owned by the Government and is managed by the C.N.A. For the account of the Government, the profit or the loss being the Government's.

12840

Refers to Order-in-Council P.O. 113, January 20, 23, covering the entrustment of the Hudson Bay Railway to C.N.A. Company.

and  
12841

12842

and

12843

Mr. O'Donnell interprets Mr. Gordon's statement that he does not intend, as far as he has any way of avoiding it, to be saddled with a lot of unremunerative lines and future development lines, as terms that might not be



satisfactory. That he is just trying to keep his lines open so that he can object, but does not know how far that would go without amendment to statute.

Witness does not think there is feeling that C.N. is there as servant to the public, to build pioneer roads wherever the settlers think they should go. Cannot prevent odd suggestion of this sort.

18900 Witness does not expect C.N. proposals will reflect in any way in the freight rate structure.

18900 Refers to Section 51 of C.N.A. Act of 1877 dealing with the construction and operation of railway lines.

18901 Witness says they consider telegraph department as another department of their railway system and from the beginning of 1923 have always looked on the earnings and expenses of that department as part of rail system operations. Understands C.N. treat telegraph department quite differently.

18902 Witness says the matter of whether telegraphs should be included as rail or non-rail income in the Company's operating revenues has been discussed between the two Railways. It was part of the Committee that was established in 1936 by the Minister of Transport to endeavour to draw up a uniform system of accounts for railways and that serious effort to draw up a Canadian classification was made.

18903 Discussion concluded in a sort of exchange, if C.N. would go uniform with C.P. on express C.P. prepared to go uniform with them on telegraph. C.N. prepared to go so far in order to arrive at something that was agreeable to both.

18904 where  
Asked whether C.N. have hotel revenues, witness says they are excluded from rail line revenues and expenditures and are shown in income accounts. Refers to page 4 of 1948 Annual Report, Exhibit 217.

18907 Refers to Toronto Terminals Railway and states it is in "rail". If separation should be made of income account as between rail and non-rail, which they have set, witness would put Toronto Terminals Railway all in "rail".

18912 Witness says it is quite contrary to Government policy that there should be any outside stock control of C.N.A.

Witness thinks the statute incorporating C.N.A. Corp. requires that the stock should be owned by the Government of Canada.

18913 If C.N.A. should demonstrate a need similar to C.P. for equity capital witness states it would be matter for Government to decide if they should be dealt with on same basis as C.N. asking.

Witness personally would have no objection to the Government of Canada buying stock in C.P. Railway.



18913

Mr. Evans points out to witnesses that the C.P.R. are not taking the position that they are opposed to the P.R. getting such relief as they may be able to establish is necessary and proper. What they are concerned with is to see that the nature of the relief and the conditions under which it is granted, if it is granted, will not place the C.P.R. in jeopardy.

18914

Witness is asked whether he agrees that it is desirable to maintain the Canadian Pacific as a healthy and sound private enterprise, competing with the railway system of the Canadian National. Witness says in his personal opinion, yes, definitely but does not differentiate between his personal opinion and his official opinion as an officer of the C.N.

18915

Witness says he cannot speak for the top policy of the C.N.

18916

Witness agrees that a privately owned railway company such as the C.P. must find from its own resources and upon its own credit any capital moneys it may require for improvements or for extensions, additions and betterments, and the usual capital needs.

Witness further agrees that the dividends, the ability to pay dividends, has an effect on the credit of the company.

18917

Witness agrees that a dividend record would provide an added cushion of security to an interest-bearing security if you are trying to sell it.

18918

Mr. Evans refers to the use of the word "return" and says that when we speak of return in the larger sense in which it is dealt with in the public utility field we also include as part of the return three things, the obligation to pay fixed interest, the obligation to pay a dividend, and the necessity for a surplus.

18919

Witness agrees that when a Company, any railway company, or any utility, is permitted to earn a rate of return on its investment or its rate base, however it may be established, that that way of looking at it is a permissible earning power and is not in any sense intended to guarantee that that earning power will in all circumstances be reached.

18920

Witness says surplus earnings should be used first to provide sufficient funds to cover expenditures for non-revenue producing improvements and betterments. The requirements to meet non-revenue producing improvements and betterments would have priority over any amount which might be transferred to a rate stabilization fund.



18884

Mr. O'Donnell, on behalf of C.P.R., says in regard to surplus earnings that the C.P.R. are asking that this Commission after hearing how this fund is to work, should recommend that the Board of Directors of the C.P.R. should use some of these surplus earnings in a manner specified.

18886

Mr. O'Donnell refers to Section 21 of the C.P.R. Act which says that they must obtain authorization of Parliament before they can proceed with the construction of any of the railway lines, branches or extensions referred to in Section 21. Mr. O'Donnell says there is no intention to alter that.

18888

Witness is asked as an accounting officer, his views as to how the stabilization fund would be reported to. Witness says he has not taken very seriously the idea that they could ever build up a large surplus fund. He cannot visualize that the net earnings of the C.P.R. will ever be in substantial figures, and if out of the surplus they are to first take the improvements and then whatever is left or a portion of whatever is left is put into this fund then if they have a deficit they shall draw on the fund. Witness cannot visualize ever building up a fund of any size - does not consider this matter is very important.

18891

In regard to stabilization fund, witness says it is a fund as distinguished from a reserve.

Commissioner Angus asks if it is not described as a fund which was to be part of a reserve.

18892

Mr. Evans, on behalf of C.P.R., says "that as far as the C.P.R. is concerned it must earn its fixed charges, its dividend requirements and its surplus requirements, and if the permissible earning power should be such that there could be a stabilization fund I think that would meet the problem posed to me the other day by Mr. Angus, that you might thereby be able to provide a stabilization fund for taking care of the lower traffic years and so-called poor years; but you must first, I think, have in mind that a privately-owned corporation cannot just appropriate what it likes out of surplus for that purpose; it must have something over and above what its immediate requirements are, and that, I think, is perhaps the way I would point out what we fear in the way this proposal is made." Mr. Evans goes on to say that his concern is to protect against one railroad which was publicly owned being able to resort to a fund without fear that if it did resort to it and had a deficit that it could not meet it could go to the Government for relief; it would be very difficult for a private corporation to meet that.

18893

Mr. O'Donnell says they suggest here that if they have a surplus, and it is unlikely that it will ever get to anything, even with the adjustment that is asked for in the first part of Mr. Gordon's statement, even if that adjustment be made, it is scarcely likely that there would be any substantial surplus in so far as they can see. If



If there were, it would only be by reason of the fact that the rates established as they have been heretofore, on the basis of the C.P.'s requirements, would provide a surplus, and if it provided it for the C.P. it would have provided it for the C.P. All the C.M. is asking here is that this Commission recommend that some consideration be given to the way of handling any surplus that may be in existence at any time.

18996

Mr. O'Donnell says the situation has been that in the past the practice has been to pay over to the Crown immediately following the conclusion of any calendar year, whatever surpluses may have been accrued during the preceding year.

18998

Refers to Section 10, Capital Revision Act, which says that the Company:-

"....may cause to be paid over to the Minister for the Consolidated Revenue Fund all or any part of any such surplus earnings."

The Chairman suggests that they withdraw this contentious part of Mr. Gordon's statement, and leave the Act as it is.

19001

Mr. Evans says "If the C.M.R. have the power to-day to set up such a fund and if, through the recapitalization which they propose, that power can be exercised so as to provide such a fund, then I think this Commission ought to see, by appropriate conditions, that that power, which involves the use of a fund set up only after a reduced level of fixed charges, shall not be exercised so as to imperil the financial position of the Canadian Pacific".

Whether or not it is within the power of the Company to exercise this proposal, a reduction in the financial requirements of the C.M. constitutes a threat to the C.P.

19002

Mr. O'Donnell says C.M.R. has made no submission that the C.M. should be the yardstick.

19011  
and  
19012

In regard to C.M.R., Mr. Evans says "if there is relief then one must think of what will take place in years in which the earnings would have been sufficient to pay that level of fixed charges, would have been sufficient to provide a very large surplus."

In those years those large surplus earnings might properly be paid as a return to the equity stockholder, the Government. Unless that is done, in those years that fund could be built up and could prevent increases in freight rates which are necessary to keep the C.P. alive.

As a condition of the revision of the capital structure one of two things should be done. The statute should provide (a) the Canadian Pacific should not have its



requirements overlooked, or (b) that the Canadian National Railway Company should be allowed to earn a return on the equity capital. Mr. Evans does not say they should be required to, but should be allowed to, before it can be used as a weapon to get rates reduced. Does not care whether they have the power to do it today or not. It makes no difference.

19013 Mr. Evans says the legislation should provide that the C.N.R. must take care of its equity stock before it can have the kind of surplus that could affect a rate stabilization fund and that there should be some provision to that effect.

19018 In reply to a question by Commissioner Angus as to whether just and reasonable rates are rates which would include that surplus which would enable the fund to be built up, or are they the rates which would exclude it, Mr. O'Donnell says the B.T.C. has a continuing day to day control over the rates, and the Board has fixed rates on the basis of the financial requirements of the C.N.R. are their operating expenses, their fixed charges, their reasonable dividends and a reasonable surplus.

19023 Referring to surplus of \$13 million shown in Exhibit 246, Mr. O'Donnell says they are talking about relatively trivial sums and thinks possibly the Chairman was right when he indicated that it might be well just to forget the whole thing.

19037 Refers to Exhibit 255 - Statement entitled "Re-statement  
and of Results with Recapitalization Plan in effect from  
19038 January 1st, 1940".

Mr. Evans suggests that apart from the Newfoundland Railway deficit which the Canadian National has to assume, that if the proposal which they have made to this Commission had been given effect to as of January 1st, 1940, and if there had been taken first out of the surplus all of the capital expenditures of the Canadian National, leaving the balance of the surplus for the rate stabilization fund, then there would have been in the fund, as at the end of 1946, an amount of approximately \$185 million.

Witness does not think he could make assumption that statement referred to above is correct.

Mr. Evans agrees that he is assuming that the entire surplus after capital expenditures goes into the fund. Witness does not agree with this. Witness says if the result obtained as at 1946 is intended to give an indication of what might happen in a similar period of time after the beginning of a stabilization fund arrangement, then he would say that the whole premise behind the assumption is in error. Witness does not believe that we may have a recurrence of the surplus earnings of the C.N. which it enjoyed in the war years.



requirements overlooked, or (b) that the Canadian National Railway Company should be allowed to earn a return on the equity capital. Mr. Evans does not say they should be required to, but should be allowed to, before it can be used as a weapon to get rates reduced. Does not care whether they have the power to do it today or not. It makes no difference.

19013

Mr. Evans says the legislation should provide that the C.N.R. must take care of its equity stock before it can have the kind of surplus that could effect a rate stabilization fund and that there should be some provision to that effect.

19018

In reply to a question by Commissioner Angus as to whether just and reasonable rates are rates which would include that surplus which would enable the fund to be built up, or are they the rates which would exclude it, Mr. O'Donnell says the B.T.C. has a continuing day to day control over the rates, and the Board has fixed rates on the basis of the financial requirements of the C.N.R. are their operating expenses, their fixed charges, their reasonable dividends and a reasonable surplus.

19023

Referring to surplus of \$13 million shown in Exhibit 246, Mr. O'Donnell says they are talking about relatively trivial sums and thinks possibly the Chairman was right when he indicated that it might be well just to forget the whole thing.

19037

and

19038

Refers to Exhibit 255 - Statement entitled "Re-statement of Results with Recapitalization Plan in effect from January 1st, 1940".

Mr. Evans suggests that apart from the Newfoundland Railway deficit which the Canadian National has to assume, that if the proposal which they have made to this Commission had been given effect to as of January 1st, 1940, and if there had been taken first out of the surplus all of the capital expenditures of the Canadian National, leaving the balance of the surplus for the rate stabilization fund, then there would have been in the fund, as at the end of 1946, an amount of approximately \$185 million.

Witness does not think he could make assumption that statement referred to above is correct.

Mr. Evans agrees that he is assuming that the entire surplus after capital expenditures goes into the fund. Witness does not agree with this. Witness says if the result obtained as at 1946 is intended to give an indication of what might happen in a similar period of time after the beginning of a stabilization fund arrangement, then he would say that the whole premise behind the assumption is in error. Witness does not believe that we may have a recurrence of the surplus earnings of the C.N. which it enjoyed in the war years.



19042

Mr. Evans suggests to witness that with the condition which it is agreed is hypothetical, where the C.M. in 1941 might have had \$185 million in the rate stabilization fund - in view of the statements in the C.M. Brief at pages 38 and 39, that it would have been exceedingly difficult for the C.M. to have resisted pressure designed to prevent an increase in freight rates that year.

19044

Mr. Evans suggests that the position of the C.M. might be that despite its desire not to be the yardstick, that pressure might be brought to bear to make it the yardstick.



19063

Mr. Evans for U.S.A. says that speaking of increased dollar paid by shipper because of increased rate in case of U.S.A., 3% goes in income tax and 6% goes in net. It will be different in case of U.R.A. because they have no income tax.

Witness says that U.S.A. in computing dollar requirement increase it by tax that will later be paid.

19064

to  
19065

Mr. Evans for U.S.A. says that if income tax dept. should say with regard to the security holders of U.S.A. that they would pay no tax on their earnings from securities, but that the tax would nevertheless be levied against the company as such upon its earnings after fixed charges, then thinks that the tax is at least payable once and should make no difference so far as shippers' charges are concerned as once tax levied against company becomes part of company's cost of doing business. After dividends are paid or the interests on the securities then money out of company's hands, out of shipper's hands and then really becomes tax against the shareholder as such or security holder.

Commissioner Angus says if U.S.A. have been paying a rate of dividend before the corporate income tax was imposed and continue that rate afterwards and then corporate income tax is transformed so that the tax exemption goes to the shareholder, he would have benefitted by that series of events and by getting not so many dollars subject to personal income tax, but by getting the same number of dollars free of income tax; the shipper would really be paying in part the tax exemption by which shareholder benefitted. If that argument applied is not what is deductible in respect of 1949 income not the total income tax paid by the company, but income tax minus 10% of its dividends.

Mr. Evans for U.S.A. says quite a problem when you try to follow that through to security holder because any retained earnings never do reach security holder and therefore not taxable in his hands.

Mr. Evans agrees that security holder's tax exemption is 10% of his dividend. Across possible 10% dividend could conceivably be deducted from income tax charge of any on grounds they pay it to shareholder, but what if another security holder whose sole source of livelihood from U.S.A. dividends. Might have that as sole basis exemption.

Commissioner Angus says implication would be that the proposition to get 6% in revenue we must charge shipper a dollar, would become to get 6%, must charge shipper about 90¢. This might make quite a difference in computing level of freight rates. Thinks it will be argued before U.S.A. but should be indicated here because it affects comparison between the companies. Says position of foreign shareholders governed by international conventions which no doubt would be modified to take care of various situations.



- 19075  
to  
19079
- With reference to statement of Mr. Lissy that uniform accounting could only be accomplished by joint consultations between railways and B.T.C. witness says thinks Mr. Lissy meant that there should be some kind of round table conference where principles worked out to mutual satisfaction. Does not agree with that. Thinks Parliament will place responsibility on B.T.C. to prescribe uniform accounting and classes of property subject to depreciation and responsibility of B.T.C. not to be shared with railways. Thinks B.T.C. to determine what classification shall contain and railways have to accept. B.T.C. well advised consult railways and take advantage of their experience. Does not think it would be sound position to advance if B.T.C. must get concurrence of railways in a conference before they can decide what classification going to be.
- 19080
- Agrees under uniform accounting classification would not have complete comparability except where activities identical.
- 19082
- Witness says at present time if he needs a ruling he looks to Washington whereas should be looking to Ottawa.
- 19087
- Witness does not agree that user method of depreciation is systematic and rational method.
- 19091
- Witness agrees that year by year allocations of depreciation in accounts need not measure the physical deterioration taking place in that year, as over the period of the service life the total result is to recover the depreciable value.
- 19094
- Thinks there is variation between the physical depreciation in a fiscal period and charge which is entered into accounts, which obtains whether on retirement or depreciation basis. To some extent also true with respect to replacement basis, but submits that replacement basis measures the actual position better than other two.
- 19095
- Witness says assumed depreciation accounting will be dealt with by B.T.C. on question of broad policy. Thinks Commission will recommend B.T.C. shall or shall not prescribe uniform accounting and that B.T.C. shall or shall not prescribe classes of property subject to depreciation. If Commission going beyond that and going to decide question of use or strait line subject could be discussed for days. Has proceeded on assumption consideration of Commission on higher level has restricted his evidence to brief summarization of his views.
- 19097
- Witness thinks trend toward depreciation accounting in U.S. tied in with tax problems as result of war.
- Thinks justifiable some recognition of income tax problem and has suggested method that he would improve C.P.A. income tax position vis-a-vis depreciation method.



Witness thinks from taxpayer's point of view would be advantage if requirement method adopted instead of depreciation accounting either on straight or user basis.

1909d  
Witness does not know if British Railways before nationalization were always on renewal basis. States he has copy of report by British Transport Commission for year 1948 and as report of railway system there is nothing in world to equal it. Under their jurisdiction are all railways, bus, air way transport, canals, docks, hotels - probably biggest enterprise in world. Much interested to note with regard to railroads that they adopted depreciation accounting on straight line method. On road way property they adopted replacement method. Thinks their method might be better and should at least be studied and considered.

19101  
Witness thinks in period 1926-27-28-29 C.N.R. was persuaded to build branch lines.

Referring to statement of President of C.N.R. witness says it covers period of thirty years and during which C.N.R. persuaded public branch lines unnecessarily and must prevent recurrence of things of this kind.

Believes Parliament under Act as sole owner of C.N.R. could compel them build branch lines.

Witness - Mr. S. W. Fairweather

19107  
to  
19120  
Witness describes situation with regard to acquisition by Government of Canadian Northern and Grand Trunk Systems.

19122  
Witness says C.N.R. are surprised of the lines of the former Grand Trunk Co. of Canada with such conditions thereto as have been built under authority of C.N.R.

19125  
Witness says obvious from map C.N. system not built as entity. If had been one or other of said lines in western Canada would not have existed.

19127  
Witness agrees no substantial lines added in Northwestern since Grand Trunk. But Grand Trunk itself not built as unit and branch lines disposition with relation to main lines not very ideal. Lack of unity never makes itself down - is continuing disability.

19128  
Mr. O'Donnell for C.N.R. says no duplication of main lines in Newfoundland.

19129  
to  
19132  
Witness explains Mr. Jordan's statement that C.N. system has more mileage than financially necessary to meet its requirements.



requirements and that excess will not have been released to some extent by abandonment of duplicating facilities and relegation of duplicating main lines to secondary lines in other cases in process of co-ordination.

19132  
to  
19135  
Comments on Mr. Gordon's statement that these lines are burden on system and it should be taken into account when considering capital structure and explains estimate burden constitutes operating disability of \$6,000,000 annually.

19136  
to  
19137  
In connection with Mr. Gordon's statement concerning "Effect of Acquisition of Unremunerative Lines in National Interest" Mr. O'Donnell for C.N.R. refers to Duff Report at page 22 where it is stated better if Government had assumed burden directly and thus avoided adding railways with capital charges and operating expenses resulting from purchase of railways based solely on public policy.

19145  
Witness admits prices paid for five railways acquired in 1929 were freely negotiated but prices paid by C.N.R. fairly high.

19146  
to  
19148  
Witness says he made study in connection with each of five railways acquired and effect they may have on C.N.R. System. Found that in all cases except St. John and Quebec and Quebec and Montreal non-standard wages being paid, using "standard" to mean C.N.R. and agreements under which mean worked did not conform C.N.R. standards. Therefore necessary estimate how much would cost bring railways up to standard. On other hand rates for transportation services had to be reduced.

19150  
to  
19152  
As to five railways being acquired in national interest Mr. O'Donnell for C.N.R. refers further to Duff Commission Report.

19155  
to  
19156  
Witness explains \$12,000,000 negative capital concerning cost of acquisition and rehabilitation of five lines and describes condition of property of these railways.

19158  
Witness comments on Newfoundland Railway and Steamship services and particularly on effect operation of these services on C.N. System income account in future.

19160  
Under entrusting order Newfoundland railway and Steamship services became part of property entrust by Crown to Canadian National.

19161  
to  
19163  
Witness gives particulars as to entrustment of railroads to C.N.R. and estimates burden to C.N.R. \$180,000 a year.

19163  
to  
19164  
Witness thinks development lines is nothing but branch line which is built to tap natural resources of country and make them available to commerce of country. Says rarely would development line add to net income of system for many years.



19167  
to  
19171

witness describes practice of C.N.R. in connection with construction of development lines. Says in future development lines reasonable portion of cost should be borne by Government. This would be automatic safeguard against funded debt climbing to unrealistic point.



- 19175 Joint submission of provinces of Manitoba, Saskatchewan, Alberta - Crow's West Pass Rates on Grain and Grain Products.
- 19176 Witness - Dr. G. E. Britnell.
- 19178 Submission states rates in question are contractual rates instituted and maintained in fulfillment of the terms of a voluntary agreement between freely contracting parties.
- 19179 Submission points out that under Crow's West Pass Agreement the C.P.R. agreed to introduce special reductions in certain rates. These rates as reduced have come to be known as "Crow's West" rates. Changes agreed to by C.P.R. as follows:

- (a) a reduction in perpetuity of three cents per hundred pounds on grain and flour from points on Canadian Pacific lines then existing in the West to Fort William and points east thereof;
- (b) a reduction in perpetuity of varying percentages on certain commodities from points on Canadian Pacific lines then in existence in Eastern Canada to points on Canadian Pacific lines then in existence in the West. The specified commodities included such items as agricultural implements, all kinds of wire, iron, nails and spikes, binder twine, roofing and building paper, window glass, paints and oils, and furniture. The reductions varied from 10 to 33-1/3 per cent and were commonly of the former figure.

The part of Crow's West Pass Agreement therefore provided for assistance for construction for direct rail line between the Kesteven Valley and the transcontinental line of the C.P.R.

Other part of Agreement concerned Prairie provinces particularly and related to rate reductions on existing lines of railway rather than construction of new lines.

- 19180 The reductions on east-bound traffic were limited to grain and flour moving to Fort William and beyond and were designed to improve the competitive export position of such staple of Prairie region and thus encourage that type of economic activity without which the region could not have developed.

Reductions on west-bound traffic applied to certain commodities particularly agricultural implements and building supplies. These reductions involved dual purposes providing western settlers with cheaper capital equipment and assuring that maximum possible proportion of this equipment should be supplied by eastern Canadian factories and carried west over Canadian railways.



13193

Locally, Intercolonial Railway and the Canadian Pacific Railway emerged as distinct and sharply contrasting types of institutions -- one state, the other private. Essentially they began and continued as substantially similar institutions -- agencies of the state designed for furtherance of National Policy.

13194

Though construction of Ives's West Main line might have been delayed without a subsidy, construction would nevertheless have taken place. The subsidy as such was welcomed by the subsidy and the Government freely offered it to realize certain specific purposes.

13195

Similarity referred to speech of Mr. Blair, Minister of Railways and Canals, in connection with the Ives's West Main Agreement, House of Commons, 1904-05, Canada Session, House of Commons, page 4526.

13196

vidence suggests that National Government passed the Ives's West Main line and the Canadian Pacific Railway Agreement with the C.P.R. in order to accomplish the following objectives:

- (1) the more rapid development of the highly promising inland area of western British Columbia,
- (2) the effective integration of this area into the Canadian economy in defiance of geographic forces and hostile American designs,
- (3) the enlargement of the prairie and inter-mountain markets for eastern manufacturers through the provision of lower freight rates on the western movement of certain important products,
- (4) the stimulation of agricultural settlement and general economic expansion in the prairie provinces by means of the statutory guarantee of lower grain rates and lower rates on the inland movement of capital equipment, and
- (5) the acceptance by the Canadian Pacific Railway of the principle of governmental rate control in the national interest.

13197

To the Canadian Pacific Railway the Ives's West Main Agreement offered at least the following advantages:

- (1) The subsidy, more substantial than that offered by the previous Government, would pay, according to their own rounded estimates, upwards of one-half of the cost of the Ives's West line;



- (2) Construction of this line would entitle them to a large land subsidy indirectly from the Province of British Columbia;
- (3) The line would provide an all-rail link between their main line and the Kootenay region; and
- (4) it would thus be possible to forestall American economic occupation of that wealthy area.

19187 Subsidies continue as events developed however all the first twenty years of Crow's Nest Agreement, competitive agreements and voluntary reductions brought and held railway rates in western Canada below Crow's Nest ceiling.

19199 Federal Government ordered wage increases for Canadian railway workers in recognition of Meadco Award in U.S. to be effective Aug. 1, 1918. (P.S. 1764). In same day, C.P.R. directed prepare new schedule freight rates (P.S. 1263) effective Aug. 12, 1918.

New Train Rates established Aug. 12, 1918, above Crow's Nest Agreement level. Suspension of this Agreement thus first effected by Order in Council was ratified by Parliament to Railway Act in 1919 (see Sec. 325 (3)), the suspension to continue for three years - July 7th, 1922.

In period Jan. 1922 to Aug. 1918, Agreement effectively held down western Train Rates only during short interval from June 1st, 1918 to Aug. 12, 1918.

19200 Suspension of Agreement in 1918 was effected under authority of War Measures Act. Under circumstances could not be regarded as based on reasoned decision that terms of Agreement fully accomplished or terms no longer in accord with realities. Nevertheless in 1922 as time approached for expiration of suspension the U.S.A. made every effort to have Agreement abrogated entirely or at least to have suspension prolonged.

19202 In June 1922, the Railway Act of 1919 was amended in regard to provision for suspension of Crow's Nest Agreement. Provided rates should be restored on grain and flour as of July 8th, 1922, but suspension of Agreement re westbound traffic should continue to July 1st and for additional year in opinion of Governor in Council.

Finally Parliament intervened and amended Railway Act to cancel Crow's Nest rates on all commodities other than grain and flour effective July 23, 1923.

19203 Eventually in 1923 Parliament enacted present Sec. 325 (2) and (6) of Railway Act which in effect made extension compulsory for grain and flour. In 1927, U.S.A. specifically directed U.S. and all other railways adjust rates on grain and flour from all western points to Fort William to Crow's Nest level. Same year Board directed rates on grain and



flour through Pacific ports for export be reduced to Crow's Nest level.

Crow's Nest pass structure of rates have been extended geographically so far as grain and flour are concerned. But since 1925 has ceased to exist for commodities other than grain and flour.

19204

Submission contends Crow's Nest grain rates represent established national policy and alteration would be ruinous to wheat-growing areas. That these rates constitute one of basic conditions upon which western agricultural economy established and developed enabling it to play part in economic life of Dominion. Urgent national necessity for protection settlement and economic development induced Government to enter agreement. Rate concession in agreement designed to assist in reducing geographical barrier between west and world markets. Considerations effective then are as valid today. Experience shows additional relevant circumstances of inherent instability of an economy so dependent on vagaries of nature.

19206  
to  
19207

Mr. Britnell says that full answer to question "who pays the freight?" involves great deal of complicated analysis.

Says position of three provinces is that most important distinction to be made at beginning of an analysis of this sort is between long-run and short-run conditions, between long-run and short-run effects of freight changes. Contends long-run effects of freight rates are the important ones to be considered by Commission.

Witness says at any point of time price individual grower will receive for wheat will tend to equal price in overseas market less freight and handling charges necessary to get wheat to overseas market. Further he is away from market the more his net returns be reduced by freight rates.

19208

Witness thinks inflation was undoubtedly a consideration which lead Parliament in 1925 to cancel Crow's Nest rates on products moving West.

19209

Witness does not think price controlled by legislation of 1925 should be released from control because of relaxation of price control after war, partly because national policy involved and some other method of relief, if desirable or required, should be found.

Does not think problem of Crow's Nest rates should be classed with problems arising from late war.

19210

Witness cannot see any requirement of relief to railways in this matter.

19211  
to

Says western farmer still needs protection of Crow's Nest rates. Should be left with Parliament to change.

19215

Emergency brought change before and should be left to



Parliament is determining emergency Bill S.T.C. Parliament should never lose control of these rates, no matter what price farmer paid for wheat and even if railways cost is great deal more than they are being paid.

On question of relief to railways witness says he can speak only for Sask. but of course it would be unreasonable not to provide some relief should necessity be clearly and unambiguously presented and maintained. Would argue that as railways represent an aspect of national policy and should be regarded as instruments of national policy, proper relief should come through ministry.

19216 Witness says importance of rates to western country such that they deserve special treatment.

19219 Thinks if railways carrying particular commodity especially one involving such large amounts of traffic, at non-compensatory rates Government should subsidize.

19226 Witness agrees that at time agreement entered into S.T.C. not controlling with respect to individual rates.

19227 to 19228 Witness thinks that even if rates had been under control of regulatory body like S.T.C. in 1897 when agreement made, Government would still have put in clause for fixing of rate in perpetuity, because thinks debates of period indicate Government of date sufficiently seized of importance of stable grain rates in western Canada.

If there had been a body constantly agreed with setting individual rates were on reasonable basis, witness thinks Government would have asked for provision of perpetuity because S.T.C. we get look on aspects of reasonability just in terms of economic dislocations of that particular area.

19229 Witness says reasonable rate would be one that provided an adequate and proper return to railway, taking into account at same time economic effects upon western section of rates on grain.

19234 As to adequate revenues from freight rates witness thinks should be supplemented from national treasury, if necessary, to maintain railway facilities of country, in view of the railways as instruments of national policy.

19235 Thinks there is a distinction between grain rates and other commodities, in terms of the importance of grain to entire economy of Canada both historically and at the present time.

Witness says he would prefer to leave it to Parliament to decide with respect to grain rates because the whole western country was settled under, as one of the basic underpinning conditions, the stable level of freight rates guaranteed under Crows Nest Agreement, and that is part of the established national policy now going into its fifth year.



1939a. Witness thinks a major reason why Parliament should control rates from country elevator to lakehead terminal is that there is no competition for movement of grain in that area, and thinks in terms of larger overall national picture, Parliament is better judge of what would be reasonable rate in those circumstances.

1939b. Witness says western provinces are prepared to support payment of rates which will provide reasonable return to railway, after full consideration has been taken of position of railways as instruments of national policy.

1939c  
to  
1940d. Witness says assuming grain rates not controlled by statute and that legislation requires R.T.C. before fixing rates on grain to lakehead, to first approve rate filed, western provinces would definitely not support an application to fix that rate at a level that was just and reasonable for movement of grain, as a commodity, in accordance with established principles of rate-making, because whole of western Canada quite unanimous that most appropriate way to settle grain rates is through Parliament.

Witness says western farmer feels "just and reasonable" receives an extremely localistic interpretation under the Railway Act, and that "just and reasonable" is something which Parliament is better able to discover in an overall sense than any board or tribunal, however eminent its personnel.

1939d. Says Saskatchewan agrees with principle of R.T.C. and would not object to R.T.C. assessing the sort of normal rate for purposes of measuring the subsidy.

1939e  
to  
1940e. Witness says western provinces would not support legislation which would enable rates on grain moving to Ft. William that did not go export to be under R.T.C. because of difficulties of administration and because they would regard it as the thin edge of the wedge.

1940f. Witness thinks if any breach is made in defence of western farmer by lowering part of the grain rate, he would believe that it would not be very long before R.T.C. would be back labouring hard to remove rest of it. Farmer would be more confident if rate statutory, but he is satisfied with status quo.

1940g. Witness thinks if it could be proved rates on other traffic are higher than they need be on account of fixed level of grain rates to Ft. William, remedy should be through national subsidy to the railways.

One of major objectives of Confederation was development and settlement of Western Canada.

1940h. Witness thinks it was on basis of statutory control of rates and the assurance that it gave at the beginning of the settlement process, that greatly encouraged and fostered agricultural development in western Canada rather than



were reduction of three cents per 100 pounds from the rate in existence in 1897.

Ways savings in cost devoted to grain raising is stable and has been for quite a number of years. Problems have shifted from problems of expansion to problems of conservation and consolidation.

19256 Witness would not say that most of time buyer controls market. Thinks general situation is true that buyer usually in stronger position than seller.

19257 Witness says very definitely if freight rate on grain were doubled it would not make buyer raise his price.

19258 Witness does not know if ever a time when farmer does not pay freight rate, but says in complete sellers market his chance of being able to pass on part or all of transportation costs is increased.

19259 Witness points out that average U.S. farmer does not raise wheat for export, therefore freight rates are not anywhere near same part of his total cost; do not enter into his net income in same way they do in Canada. Comparison again vitiated by difference in circumstances between two countries.

19272 Witness thinks grain rates before adjustment in 1907 were unreasonably high. Says he is going by fact Parliament made agreement which reduced rates. Thinks this pretty good evidence rates too high.

19273 Witness says in 1930's grain rates at Groe's best level were unreasonably high from standpoint of the Western farmer, but there are two ways of looking at reasonable from standpoint of leaving farmer anything, and in terms of the proportion of his total price of wheat which they took, that was exorbitantly high. From railway standpoint earnings tend to indicate they were not unreasonably high.

19274 Witness says Western provinces are not asking that statute be interfered with in any way, merely that statutory rates put through in recognition of national policy be left as they are; and if any adjustments in terms of national policy have to be made, then should be made in way that does not disturb grain rates in Western Canada.

19276 Witness says position of Western provinces is that you cannot look at picture in terms of just grain rates, that since railways were designed as instruments of national policy you cannot take grain rates out of overall railway picture.

Mr. Sinclair for C.P.R. says he takes opposite position, that national policy should not be looked at, rates should be dealt with on ordinary basis of value of service.



19282

Witness - Mr. Hu Harries.

Minister contends it can be agreed that railway rate control in Canada has been directed to the prescription of certain minimum requirements for just and reasonable rates.

19285

Mr. Sinclair for C.P.R. says control of grain rates should be taken from Parliament and passed to R.T.C. and C.T.C. would have to consider these rates just on cost basis. The railway would make an application to R.T.C. to fix rates on grain and in support of it would bring forth some evidence as to cost, because rate they would propose would be one that would cover their cost of movement plus something to other expenses. Exactly how much more than cost they would ask for would be at exercise of their judgment as to what deterrent there would be on the free movement of grain by fixing a rate at a certain level.

19286

Mr. Sinclair for C.P.R. says R.T.C. should determine grain rates on technical basis and if national policy requires some relief should be given, should be to producers and not railways.

Mr. Sinclair says R.T.C. position is that it is a matter for Parliament if one segment of economy requires special assistance, and that they should not get assistance at expense of other shippers of railways.

19291

Witness says it is agreed R.T.C. should not be made national planning board. Significance cannot be overlooked as for as statutory rates on grain concerned.

19293

Debate contains direct gov recent action aimed at implementing broad national policies cannot be circumscribed by the demand to have segments of that policy determined by an appointed tribunal unless it can be conclusively demonstrated that in the absence of such delegation the efficiency of the tribunal itself is seriously impaired.

19294

Explanation states land grant rates in U.S. were altered for very practical reasons, not on a consideration of principle. Primary reason was that Congress believed they had served their purpose. Other reasons were ever increasing government traffic, practical difficulties of determining land grant reductions, discrimination created between different government contractors and discrimination created between different railways. These reasons good, and sufficient in U.S. but have no relevance in Canadian situation. Land grant rates may have served their purpose in U.S. but none cannot be said of Crew's Test Rates.



19295

Submission points out that the necessity for statutory grain rates is pressing, if not stronger today than when originally implemented.

19309

to

19310

Witness says argument that the existence of statutory rates militates against the establishment of just and reasonable rates for traffic other than that which is handled at the statutory level is predicated on the assumption that grain rates under the statute do not in themselves provide a satisfactory return to the carrier. If grain rates pay their way, on a reasonably compensatory basis, the fact that they are statutory cannot affect just and reasonable character of other rates.

Says open question whether or not statutory grain rates pay their way.

19318

Says not criticizing railways' actions. Just admitting that there are other rates besides Crow's Best which do not automatically take percentage increases and does not necessarily militate against just and reasonable rates in that instance.



19324

Submission points out there are rates to-day which move traffic at a charge below the level which pertained in 1897. Certain water and truck competitive rates are well below 1897 level. Grain rates far from unique.

It is impossible to assume original rates were just and reasonable in absence of regulatory tribunal at that time.

Submits it has been alleged that the similarity in circumstances surrounding production of grain in Western Canada as compared with contiguous areas in U.S. makes it pertinent to examine and compare the grain rates which are applicable in these two countries.

19327A

Summary of Part II - Economic Implications of Crow's Nest Pass Grain Rates.

19333

Witness thinks statistics will indicate that proportion of total traffic in Western Canada which is made up of grain is actually decreasing.

19334

to

19336

Even in terms of volume does not think grain traffic has developed as much as expected in 1997, in view of fact there has been settlement and then retrenchment.

Thinks rates have not yet served their purpose.

Witness agrees that if these rates had been increased same as other rates (about 40%) would be average of about 6¢ per bushel, taking grain crop for export at 300 million bushels would mean \$18 million a year between both railways and with to-day's price of \$1.75 per bushel total value of crop would be \$525 million. Increase would be about 2% of total value and if there are 250,000 to 300,000 farmers in Western Canada witness agrees increase would mean \$50 to \$75 per farmer.

Witness says not far back would have been impossible to get \$75 from western farm family as they did not have it.

Thinks increase of kind just referred to would be too much.

19337

Statement by Mr. Sinclair of C.P.R. re Land Grant Rates in U.S.

19340

to

19344

In reply to Mr. Covert witness says Alberta agrees that B.T.C. should not be made national planning board.

Says Alberta took position in the industrial planning brief that inasmuch as rates in themselves have a planning effect, B.T.C. should take cognizance of that fact, but with wheat for instance not to take into account all the factors one might be trying to set up a marketing policy. Thinks that not part of responsibility of B.T.C.



19345

Witness in reply to question from Mr. Innis says he does not think B.T.C. could deal with the question of grain rates on the broad national point of view such as Parliament has done and in opinion of witness will continue to do.

19347

Mr. Shepard for Province of Manitoba, says that Province not asking B.T.C. be made national planning board, Manitoba does not suggest that rates should be fixed, for example, so that industries would develop in area where they would not otherwise develop.

19347

to

19348

Mr. MacPherson, on behalf of Saskatchewan, says at time seven provinces made application for appointment of this Royal Commission position of Saskatchewan was that there should be attention given to dealing with B.T.C. as such and the giving of B.T.C. such assistance as would assist it, but as to its powers there was no definite suggestion as to amendment of existing legislation.

In reply to question of Chairman Mr. MacPherson admits brief of three provinces says that the functions of B.T.C. do not include economic planning and resource development and inference is they want B.T.C. to remain that way.

Mr. Frawley, on behalf of Alberta, says they are not asking functions of B.T.C. should include economic planning and resource development as such.

19349

Witness says in his opinion at same time as they were developing railway network in Eastern Canada they were spending large sums on canals etc., and that Crow's Nest Agreement was a sort of offset for this.

19350

Thinks if railway was going to go into bankruptcy, then that might terminate Agreement.

19352

Witness says rate on canned goods higher in 1927.

19354

In reply to question of Mr. Innis witness says thinks C.P.R. should remain under private ownership.

19355

to

19356

Witness admits he recalls evidence of Mr. Armstrong before this Commission dealing with reduction in grain rates in U.S. and equivalent drop in Chicago market. That was in 1929. Says he remembers reduction in Western Canadian grain rates in 1928.

19357

to

19358

The Chairman says freight rates went down and then price of wheat went down. There may have been other factors of course. We are not excluding them from our minds.

/when

Mr. Sinclair, on behalf of C.P.R., says trend of market was upward from low point on June 15th, 1928, and then, rates reduced there was drop in market, suggests that after drop trend upwards again asserted itself. Suggests to witness that shows buyer has not reversed trend of market, but has taken advantage of reduced freight rates on grain to Fort William.



Witness says does not know, would have to study question, but offhand would not agree.

Mr. Sinclair suggests to witness buyers take advantage of a lower rate, and that benefit of lower rates does not go to farmers. Witness does not agree.

19372 Mr. Sinclair says his theory is that the transportation charges are entirely paid by purchasers of wheat overseas.

19395 Mr. Sinclair says local rates on grain in Western  
to Canada were not raised in B.C. case or I.O. case even though  
19396 B.C.C. has jurisdiction over them. Railways tried to have  
them raised but B.C.C. took position that if they were  
raised it would create too great a disparity with Crow's  
West level.

19398 Mr. Sinclair queries witness as to Alberta's position  
assuming Crow's West rates do not pay cost of movement and  
give something to constant expenses. Witness thinks would  
have to look at them over period of time before reaching  
conclusion.

19399 Witness states that in general position of Western  
Provinces is that rates should be compensatory.

Witness says grain rates should be left with Parliament be-  
cause different proposition than other commodities. Grain  
rates are part of national policy and effect Western  
Canada to much greater extent than do coal rates, for  
instance.

Mr. Sinclair, for C.F.R., asks witness how Western  
farmer would be harmed if B.C.C. on established principles  
of rate-making fixed just and reasonable rates for grain  
and farmers, if they needed assistance, secured it from  
Dominion Government. Witness replies that it is not a  
matter of what is involved in Mr. Sinclair's concept of  
just and reasonable. Does not know how Western farmer  
would be harmed. Western farmer like C.F.R. may not like  
subsidies - they might be harmful.

19405 Statement of Mr. R.E. Moffet on behalf of Province of  
Manitoba.

Witness Mr. R.E. Moffet.

Statement refers to Part I of Brief of three Prairie  
Provinces where states:-

"Stability of transportation costs at the lowest  
possible level is absolutely essential to the survival of  
the wheat economy. This at one and the same time imposes  
the necessity for the continuation of Crow's West Grain  
Rates and for the protection of their integrity by  
statute. The continued ability of the Prairie Provinces to  
play their part in the Canadian economy is dependent upon  
the prosperity of the wheat producers. Stable grain rates  
at a minimum cost are essential to that prosperity."



19406  
to  
19407

Witness points out some of considerations that gave rise to Parliamentary action on grain rates in the past and which are as valid today, are (1) Most important is fact railway transport has absolute monopoly on movement of grain to market. (2) Production of grain and transportation of grain is still Canada's greatest industry. Grain industry is of such great national importance to Canada that it is almost inconceivable that anybody other than elected representatives of Parliament should be given authority of dealing with it.

19408

Witness contended of C.P.R. that a rate established in 1897 is *prima facie* unreasonable to-day overlooks too fundamental issues. They assume rate in 1897 was proper, but it is quite possible it was too high. Suggests were fact that railway willing to institute rate at that time is *prima facie* proof that by present standards it was too high. Contention that rate established in 1897 is *prima facie* unreasonable to-day overlooks the changes in traffic conditions and operating efficiency in past fifty years.

19426

~~Witness - Mr. John H. Wesson.~~

19425

Submission of Manitoba Pool Elevators, Saskatchewan Co-operative Producers and Alberta Wheat Pool.

Counsel - Mr. R.H. Milliken, K.C.

19426

Witness - Mr. John H. Wesson.

19437

Witness says he would not like to state enormous amount of money that must have been collected by C.P.R. in sales of lands which cost them nothing to acquire in first place. They still have continuous revenue for years to come in all those areas where they still own oil and mineral rights.

19442

to  
19444

Witness in his statement points out that upon re-instatement of the Crow's Nest Pass Rates in their entirety, July 7th, 1924, the C.P.R. for the first time took the position that the Agreement only applied to shipping points which were in existence in 1897. It accordingly ignored maximum set by the Agreement insofar as all other points were concerned. The discrimination and confusion thus created brought about appeals to the S.T.C. and the Government alike. S.T.C. held that the provisions of the Agreement had been overridden by the Railway Act and it, therefore, restored the rates in existence prior to July 7th, 1924, which on west bound freight were at a level higher than maximum set by the Agreement.

The Board's decision was reversed by the Supreme Court of Canada which held that the Crow's Nest Agreement was binding on the railroad and the Railway Commissioners, but only applied to shipping points in existence in 1897.



Parliament in 1937 intervened by relieving railway of its obligations under the Agreement with regard to all commodities shipped from Western Canada to the West. Thereby it removed the ceiling set by the Agreement on all such commodities. At same time Parliament not only refused to relieve railway of its obligations with regard to grain and flour rates, but enacted that they should apply to all shipping points, irrespective of whether or not they were in existence in 1897. In this connection was influenced by the finding of a Parliamentary Committee set up in 1936 to investigate question of Crow's West Pass rates. Findings of that Committee in Order-in-Council June 8th, 1938, in part as follows:-

"The Committee are further of the opinion that as the production and export of grain and flour forms one of the chief assets of the Dominion and in order to encourage the further development of the great grain growing provinces of the West on which development the future of Canada in large measure depends, it is desirable that the maximum cost of the transportation of these products should be determined and known, and, therefore, are of opinion that the maximum established for rates on grain and flour as at present in force under the Crow's West Pass Agreement should not be exceeded."

19449 Statement contends that Prairie Provinces alone of all Canada have no competitive relief.

Says Western producers are still at mercy of transportation companies, save for the protection of Crow's West Agreement.

19449 Witness says freight on grain has never borne any relationship to its market price, that is market price has never fitted itself to any variation of change or otherwise of freight paid by farmer.

Referring to C.P.R.'s contention that if maximum set by agreement should ever prove inadequate to return company a profit, then all other shippers must make up deficiency, witness says any application based on that contention should not be considered until all other sources of revenue have been exhausted.

19451 Witness submits that benefits under Agreement are beyond purview of C.P.C. because under railway set they could not be taken into consideration in determining rates. Western grain rates which are definitely tied to those benefits must therefore continue to be dealt with by Parliament on national policy level.

19452 Witness says railways are facing recurring demands for wage and salary increases and shorter hours, which to date they have not seen fit to resist. The result has been a divergence between railway wage level and general income level of Prairies which has become increasingly burdensome to farmer through increases in freight rates on consumer goods.



- 19451 submitted that railway wage level should be fairly  
to related to that of those who pay the freight. There is  
19452 a duty upon railways to see that that relation maintained.  
Western farmer is not satisfied that this duty has been  
fulfilled. Past wage increases have been made the basis  
of applications to N.F.C. for increase in rates. C.F.R.  
now contends that point has been reached where it must be  
released from its obligation under Crow's Nest as last  
remaining avenue of relief. Submitted that before such  
course of action even contemplated railways should re-  
examine their wage and salary structure.
- 19453 Witness's statement contends that because Western  
farmer is farther from world markets than his competitors  
more of his selling price is absorbed in freight. He buys  
on the basis of cost plus freight and sells on a basis of  
world prices less freight.
- 19454 Submitted that while Agreement technically between  
Government and C.F.R. it was really an agreement upon  
which settlers of Prairies relied as an inducement to  
build Western economy. Canada and Railroad must keep  
faith with those people.
- 19455 Witness says Western farmers do not want even Parlia-  
ment to tamper with Crow's Nest Rates.
- 19457 Witness thinks Western farmers would prefer to make  
their application and put case before Parliamentary  
Committee, with understanding of economic problems of  
West rather than put their case before N.F.C. who would  
only consider an equity of freight rates apart altogether  
from principle of Agreement.
- 19459 Witness says Western farmers believe in collective  
bargaining.
- Witness says farmers in West take view that if there is going  
to be balanced economy railway employees should not  
continue to want more than other classes of people in this  
country, not only farmers but other people as well.
- 19461 Witness says if it comes to question where labour  
wants too much, more than the economy could stand, thinks  
should be let strike for a while and see what happens.
- 19480 Witness admits that C.P.R. before Farmers' Creditors  
Arrangement Act voluntarily waived sums of money running  
to millions of dollars.
- 19482 says C.P.R.  
to Mr. Sinclair, on behalf of C.F.R., received not only  
surface rights but mineral rights to lands as well.  
19483 When first contracts made selling Lands there were no  
reservations, mineral rights not reserved to Company. Later  
they had reservation on coal and petroleum and then all  
minerals as deemed only mineral worth while in some section  
was coal.



- 194921  
19493 Mr. Sinclair for C.P.R. referring to page 19361 of transcript and brief of three provinces at page 27 dealing with certain water and truck competitive rates which they said for example, are well below their 1897 level, says C.P.R. has gone to B.T.C. and found earliest transcontinental tariff they have was effective in 1904. Can find no instances and C.P.R. tariff officers have again instructed that there no instances to support statement made in brief that they know of or have been able to find to support Mr. Harries' statement.
- 19504 Mr. Shepard for Manitoba says as far as that province is concerned statement under discussion could have been re-written this way: "Certain commodities today moving at water and truck competitive rates, for example, are moving at rates well below the rates on those commodities in 1897."
- 19510  
to  
19511 Mr. Sinclair for C.P.R. reads from Western Rate Case 1918 chapter 7 where statement in part as follows:
- "It should, however, be borne in mind that while water competition is urged as being a reason for a low-rate standard in the West, the water rate, with resultant low freight, has probably played a greater part than any other factor in the prosperity of the West. The additions to water facilities which from time to time have been made are largely demanded by the necessities of providing the cheapest and quickest outlet for the ever-increasing productions of Western Canada. This affords but an additional instance of the fact that the interests of Eastern and Western Canada are closely interwoven, and that an enforced lower rate structure in the West is not as much productive of injury to the West as has been claimed."
- 19512  
to  
19513 When asked by Mr. Sinclair how western farmer would be harmed if B.T.C. on established principles of rate-making fixed just and reasonable rates for grain and farmers secured assistance if necessary from Dominion Government, witness says on that basis would be completely dismantling Crow's West Agreement.
- 19515  
to  
19516 Witness says Western farmer considers Crow's West Agreement a deal between a company and a government to do certain things for which the company received certain concessions. If principle of agreement departed from then, people in west want to know why C.P.R. should continue to retain all the concessions made to them, all the revenue they have received through the years through these concessions and may continue to receive for many years to come.



Witness says supposing compensatory features of question were being considered and the C.P.R. were losing money in moving grain, then western farmers believe an agreement is an agreement, and inasmuch as there has been such a development of C.P.R. through all last forty years, with its subsidiaries, steamship lines, hotels, projects in B.C., Trail smelters and all other ramifications C.P.R. has all over the world and they say that this question should not be approached until such time as all other avenues are used to take care of the entire operation of the company. Then if C.P.R. can come to Government and say Company as a whole is insolvent, witness thinks prairie farmers would be prepared to look at question - not before.

Witness says if subsidy necessary it should be paid to C.P.R. not to grain growers.

19522  
to  
19523

Witness is asked if it would be fair to ask farmer on poor land in Ontario to pay his proportion of the difference assuming that Crow's Nest Rates not paying their proportion of transportation costs and as a result other rates are higher than they should be. Witness replies that if assumption true, which he does not admit, it is unfair.

19527

Witness says he speaks for 750,000 people in Western Canada.

Thinks farmers in West generally share his view. They do not believe railway employees entitled to more income than any other segment of economy. While they do not object to collective bargaining, they think railway employees should be fair and when they get arrogant and want too much - if it cannot be settled, let them strike and cool off.

19528  
to  
19529

With reference to evidence given by Mr. Kelly representing certain railway employees and unions that railway employees would never be satisfied until they achieved parity with U.S. railway employees and their demands would be pressed until that time, witness thinks this is wrong and there can be no comparison between economy of United States and that of Canada. Nor would he agree with position of railway employees indicated by quotation from Mr. Justice Cameron's report of Conciliation Board in 1948. In this report it was stated that it was declared purpose to secure and maintain differential in favour railway workers.



Mr. O'Donnell for C.N.R. says there are two conciliation boards now sitting. Cannot say whether demands would give Canadian railway workers parity with U.S. workers, but demands would total about \$74 or \$75 million per annum.

19530 Witness says his own opinion is that railways would get unanimous support from farmers of Western Canada and all consumers in towns and villages if railways were to go along with suggestion that increases should be resisted even at risk of tying up railways.

Witness thinks it would be intolerable if further increase to extent of \$74 million a year is given to railway employees.

19532 Witness says gap is already too great between wages of farmer and those whom he employs and those who are operating railways.

19536 reiterates belief in collective bargaining but does not believe in conceding to unreasonable requests. If faced with that situation collective bargaining will continue and finally reach conclusion satisfactory to both railways and employees. Must be kept in mind if wages continue to increase freight rates will continue to increase and every other segment of economy must pay. This is unsound, unfair and wrong and must be resisted to the full.

19538 Submission of United Grain Growers Limited

Witness: The Hon. J. B. Brownlee

19540 Submission states that United Grain Growers are appearing to oppose proposal of C.F.R. that Commission recommend amendments to Railway Act which would do away with Grow's Nest rates and thus place all grain rates under B.T.C.

19541 Contends no change from present statutory control of export grain rates is possible without throwing whole question into arena of Parliament for decision.

Without Parliamentary control over grain rates farmers would face certainty of substantial increases in grain rates based primarily on alleged overall need of railways for greater revenue.

19542 Submission points out cost of transportation to lakehead is entirely borne by producer. He must absorb that cost in order to sell his grain on the basis of export prices at that point.

The economy of the Prairie Provinces is built primarily upon the production of grain for export. Submission of United Grain Growers rests on this basic fact.



19543

Contents little export of oats, barley, rye and flax, wheat thus directly the foundation of economy of West. Was also contributed greatly to economy of Canada as a whole.

Western income is extremely variable. Low prices during depression years affect it more than rest of economy, while extreme climatic variations bring about alternate periods of good and poor crops.

19546

to

19548

In 1903 when Board of Railway Commissioners first established it was emphasized that freight rates on grain which had come under Parliamentary control were deliberately excluded from jurisdiction of Board.

When rates suspended in 1919 to meet temporary emergency arising from war it was provided that the suspension was for three years only.

National policy re grain rates was once more confirmed and strengthened by further amendment to Railway Act in 1925, which has since stood unchanged.

Contents national policy on grain rates definitely established. This was done to develop Prairies and justified by vast contribution of West to economy of Canada.

19550

Witness thinks in majority of cases principle of "what the traffic will bear" provides protection against excessive railway rates. Export grain rates to lakeland and Pacific Coast exception.

Contents Western grain must move to export points almost regardless of rates.

Western farmer finds no protection in principle of "what the traffic will bear".

19551

Considers C.P.R. still bound by Agreement of 1897.

19553

Witness points out depression of the 30's remains vividly in memory of Western farmers. If during that period farmers had also to contend with higher freight rates many of them would have been driven from the land or much greater percentage of their debts would have had to be written off.

19554

to

19555

Witness says if incidence of producers with respect to export rate on grain, then increase would constitute a direct levy. There is no fact better known to Western farmers than freight rate on grain from his shipping point. No parallel exists re any other freight rate.

To put export grain rates under B.F.C. would leave Western farmer defenceless against demands for higher rates.



Useless for western farmer to plead for a national agricultural policy before B.T.C. if Parliament abandoned its long continued national policy in that respect.

B.T.C. is body charged with administering, not framing, national policy.

- 19556      Witness points out when existing grain rates first made effective in 1899 wheat was 70¢ per bushel, but there is not evidence at all that these rates were just and reasonable at that time or in relation to that price.
- 19558      Contends freight rates on grain have not been related even approximately by prices of grain which vary greatly.
- 19559      Witness submits circumstances in U.S. not comparable to those in Canada and sets out reasons.
- 19563      In summarising submits continued Parliamentary control of export grain rates to Lakes and Pacific Coast necessary. West growing industry vulnerable to world conditions beyond Canadian control. Grain rates in question are direct levy upon farmer which he cannot pass on. Development of grain industry in West has been matter of national policy. To put rates under B.T.C. would be to prevent their regulation according to principles of national policy, which has been the basis of development of Canada for 50 years.
- 19566      Witness says present statutory regulation of grain has consistently been part and parcel of Dominion policy with respect to land settlement and development and promotion of agriculture in West.
- 19567      Witness compares M.F.R.A. and Crow's Nest Pass Act.  
to
- 19568
- 19572      Witness gauges whole structure of grain industry in West built up on principle that the farmer must get grain at his own expense to lakehead or Pacific.
- 19573      Witness says farther farmer is from point of  
to delivery the higher his freight rate.
- 19574      Witness says increase in freight rate would not increase price of grain.
- Thinks that unless some wider change in freight structure than one simply local to one producing country, increase in rates would have no effect on price of wheat.



- 19575      Witness says so far as carriage of grain in Canada is concerned freight rate paid by shipper. In his opinion Canadian farmer interested up to point of his delivery and there may be other factors entering into question of freight from there on.
- 19576      Witness says there was no evidence of any relationship whatever between prices of grain and the rates established in 1897.
- 19583      Witness gives his views on question raised by Commissioner Angus on inflation as being in the minds of the people who enacted Crow's Nest statute in 1897. Thinks where a government has to wrestle with problem of inflation and has to deal with different factors such as agricultural prices, it should also have control of freight rates. Thinks farmer has already entered period of deflation.
- 19583      Witness is asked to comment on drop in grain market to  
19584      in U.S. in 1929 and in Canada in 1922. Does not think decrease in rates responsible. Thinks decline merely followed course of market.
- 19590      Witness agrees one of fears of Western farmer is that if the rates are placed under jurisdiction of B.T.C. agriculture in West would be subjected to restricted view.
- 19595      Does not think his view and that of people he speaks for influenced by apparent monopoly of C.P.R. over large area. Thinks question wider today. You cannot point to one thing and say that is the governing factor in attitude of Western farmer today.
- Says position of United Grain Grower is that the rates should stay under control of Parliament as part of Crow's Nest arrangement and having said that they have to be prepared to accept the judgment of Parliament at any time with respect to the agreement.
- 19596      Witness is not prepared to go so far as to say rates themselves which were part of Crow's Nest Agreement should never be disturbed. Case of United Grain Growers rests on fact Agreement made. Presumes any agreement can be changed. But says control must rest with Parliament and must be left to judgment of Parliament to decide whether at any future time and to what extent they might see their way to relieve the company of some of the terms of the Crow's Nest Agreement for a short time or a longer time.



19601      Witness says Parliament is charged with welfare of people of Canada. If matter of extreme national emergency arose would presume that interests of country as a whole would outweigh interests of a part, and for time being might relieve Company of its obligations.

19604      Mr. O'Donnell for C.N.R. reads para.2 of General Order 448 of B.T.C. as follows:

"The Board orders as follows, namely:

(2) That the rates on grain and flour from prairie points to Vancouver and Prince Rupert for export shall be on the same basis as the rates to Fort William, but in computing such rates, the distance from Calgary to Vancouver via the Canadian Pacific railway shall be assumed to be the same as from Edmonton to Vancouver via Canadian National railways, namely 766 miles".

19606      Witness does not think it possible to give necessary discretion to B.T.C. to deal with Western grain rates, having regard to the interests of agriculture generally.

19607      Does not think grain rates should necessarily be increased if other rates are increased.

19610      Witness says as far as studies of United Grain Growers have gone there is not need for investigation into compensatory nature of grain rates today.

19611      Witness admits he had never considered point that in so far as westward route is concerned, action to apply Crow's Nest rates was taken by B.T.C. not by Parliament, and apparently B.T.C. would have same jurisdiction today, to undo that or change it in some way or other.

The Chairman supposes it follows that as rates were extended westward by order of the Board, then a similar order might put an end to that extension at any time, so to certain extent rates are now under jurisdiction of B.T.C.

19612      Mr. Sinclair for C.P.R. says B.C. takes position that they are wheat port and should have wheat in position there to attract ocean shipping and if they do not have same rates westbound to Pacific ports as eastbound to water they are being unjustly discriminated against.

In reply to question by Commissioner Angus witness says:

19613      If extreme emergency arose would leave it to Parliament to say whether it will deal with rates directly through a committee or ask B.T.C. to make



investigation. Taking this into account witness will not say that if crop's best rates were increased at any one time, the other rates which had been just and reasonable before because they gave railways sufficient revenue would cease to be just and reasonable because they would give railways too much revenue, so that any action taken by Parliament might have to be followed by a rate revision of other types. Parliament only dealing with one part of picture and its complete transaction might have to have some action by B.T.C. as well.

19617      Witness says United Grain Growers would not be satisfied to have movement of grain governed according to the lines in the document which was originally signed. Says they would argue that Parliament, as it has a right to do has amended Agreement, and that Agreement stands as it is today.

19630      It is suggested to the witness that since Canadian production of wheat available for sale on world market represents substantial portion of total available on world market, that it would be possible for increases in cost of production i.e. freight rates, to be passed on to ultimate consumer over period of four or five years. Witness agrees that Canadian block of wheat has an effect on world price, i.e. it plays its part, but goes on to say that Canada cannot force up its price over four or five years without having repercussions.

19639      Witness is questioned about decline in Chicago  
to      wheat market in May, 1929 and says you cannot point  
19640      to any particular day and say that because of something that was done with respect to freight rates that it affected the price on that day because there was a steady decline there through the month.

19642      Witness says western farmer wants a square deal and that so far as freight rates are concerned, he has built up his economy on the basis of reasonable and fair rates to him protected by Parliament and he wants those and if the impact should rest here or there, he wants Parliament to be the body to say that and provide the answer.

19643      Witness admits western farmer wants his rates on grain fixed on a different basis and to involve different principles than are other rates in Canada.

Does not think railways should necessarily bear the burden. Says railways have a right to go to Parliament if they feel they are losing money and farmer is prepared to rest his case with the Government and abide by their decision.



19648

Mr. O'Donnell for C.N.R. refers to General Freight Rates Investigation Report 1925 at page 205, which contains explanation of assumed mileage of Canadian Pacific from Calgary to Vancouver (700 miles or the same as C.N.R. mileage from Edmonton to Vancouver).



Submission of Alberta Federation of Agriculture

19652

Witness - Mr. Roy C. Marler

19653

Witness says marketing problem of the prairie producer cannot be considered a purely sectional matter but is rather one of truly national concern.

19654

Thinks western farmer feels that many members of parliament representing all areas of Canada, because of their intimate knowledge of conditions are in a better position to be trusted with responsibility of Crow's Nest Agreement than are B.T.C.

19661

Witness submits it is evident that both parties to Crow's Nest Agreement realized that future gains were such that Western producers should have protection with regard to rates in the shipment of grains and westward movement of manufactured essentials and that Eastern manufacturers should be protected or assisted in placing their goods in Western Canada.

19665

Submits that if Crow's Nest Agreement found untenable by C. P. R. then it should be reconsidered on the basis of reverting back to the Government the assets which were turned over to the railways at different times, both in regard to the main and Crow's Nest lines. Government then might find it in best interest of Canada to subsidize certain or all traffic over certain areas between Eastern and Western Canada.

19671

Submission points out that the safeguards provided by the Crow's Nest Agreement are equally necessary to-day and that it would be a breach of faith on part of C. P. R. to now ask that Agreement be terminated. Would be just as logical for Government to ask for return of lands and all rights that go with them as it is for railway to ask to be released from covenant re Crow's Nest Agreement.

Unalterably opposed to any move which will transfer the responsibility of establishing these rates from the statutory position to that of B. T. C.

19673

Thinks western grains--wheat and coarse grains--are of such national importance that grain rates are not a concession to Canada as a whole.

19681

Considers that the maintenance of the C. P. R. on a sound and serviceable position is of national importance.

19683

Does not think anything could be done that would place B. T. C. in as good a position to deal with Crow's Nest Rates on a basis of the national interest as leaving them with Parliament.



19791

Witness says original agreement provided for rates on other articles. Says for instance on farm machinery it should be restored.

When asked if rate restored on farm machinery should C. P. R. also be put in the position that it only applies to lines for which the agreement originally provided, witness replies that Parliament is in best position to decide what is in best interest of economy of Canada in regard to rates on western grain.

19705

The Chairman commenting on statement by Mr. Spence for C. P. R. re jurisdiction of B. T. C. says that if Board's jurisdiction is as broad as all that, there would have been no necessity of enacting W. F. R. A.

19713

Chairman says there must be clearer definition of just and reasonable rates.

Chairman says it is important for Commission to know just what C. P. R. intends, if they succeed in having Act re Crow's Nest changed.

19714

Chairman says he thinks that before they close they should have a very clear statement from C. P. R. as to what they really intend the jurisdiction of B. T. C. to be, or ought to be, in respect to Crow's Nest rates if Act of Parliament were repealed and jurisdiction given to B. T. C. because it seems to him they are putting the case before the hearing for the first time.

19716

Mr. Spence for C. P. R. in answer to Chairman admits that view of railway is that rates must always be compensatory.

19731

Mr. MacPherson for Province of Saskatchewan states that the concluding words in the report of 1896 of Directors of C. P. R. to shareholders read as follows:-

"The interests of the country at large are so much concerned in the question of a Crow's Nest Pass Railway, that your directors confidently expect reasonable assistance at the hands of the Dominion Government."

19734

Witness Mr. C. F. Vincent



Submission of Cities and Members of Councils  
of Calgary and Edmonton re Crow's Nest Pass  
Rates on Grain and Wheat.

Witness - Mr. J. M. Sinclair

19734

Witness points out that the cities and members of Councils of Calgary and Edmonton are of the opinion that the grain rates vitally affect the municipalities and business men of Western Canada and throughout all Canada, though more directly Western Canada. Effect is - rates. Some of the grain rates must necessarily be what we direct and indirectly to business men and municipalities as to farmers themselves. That is why they felt they should make representation to Committee and this is protest against proposals affecting grain rates.

19735

Witness says that fundamental position taken in the submission is that the Agreement and Statute of 1897 constituted instruments of public policy of the Government of Canada, and that public policy was reaffirmed by Parliament in 1925 after a period of disturbance and inquiry and subsidization. In attack on the Agreement is the 1925 Statute of generally involves the public policy. It is submitted that there would be no recommendation in respect of the public policy until it is not demonstrated by strong evidence that it is no longer in the public interest to maintain it. Until then the grain rates should continue to be a matter of public policy, with other considerations, freight rates on other commodities are determined.

19737

Witness says that as an individual he could not say what grounds would be sufficient and adequate to have grain rates removed from the statute. Says that adequate and proper considerations can only be determined by Parliament when initiated the policy in the first instance.

19738

When asked if he thinks any statute should compel a company to carry traffic at an out-of-pocket loss, witness says that it has been done, and that there is justification for it in some instances. Says it seems to him that in this case there is some similarity to what is known in merchandising as loss leaders.

19740

Mr. Sinclair for C.P.R., in reply to the Chairman, says that he thinks that in the evidence and in the exhibits, the material that was filed by Mr. Jefferson, will be found sufficient evidence to reach the conclusion that in 1897 after 3 cents reduction, the rate was still compensatory. Thinks there are a number of facts that lead to that conclusion.



- 20119  
to  
20020 Mr. Frawley for Alberta produces and files as Exhibit 264 letter from C. E. Moles, director, Bureau of Finance, I.C.C., with attached tabulation of common stock sales by U.S. railroads. This letter shows relatively small amounts of common stock have been sold by Class I roads for the purpose of providing new money.
- 20023 Mr. Smith for Nova Scotia produces and files as Exhibit 267 a statement prepared by the I.C.C. which contains selected income items by regions and districts of Class I steam railways.
- 20024 Mr. O'Donnell states that he has been authorized to accept proposal of the Chairman and to declare that the portion of Mr. Corliss's statement under the heading "Surplus Earnings" is withdrawn.
- 20026  
to  
20028 Statement by Mr. O'Donnell indicating generally the situation of the C.N.R. and the lines it operates and which are comprised within what is termed the Canadian National Railways system.
- 20030 Mr. O'Donnell points out that Section 3 of the C.N.R. Act provided that the Governor-in-Council might declare that the C.N.R. "shall have a capital stock, with or without shares, to such amount as may from time to time be deemed expedient".
- 20034  
to  
20036 Statement by Mr. O'Donnell setting out Companies and Railway comprising the Canadian National Railway System in 1923.

WITNESS MR. S. W. FAIRWEATHER

- 20039 Witness produces map of C.N.R. indicating branch lines constructed since 1921, showing year opened for operation. This is filed as Exhibit 269. Witness explains map.
- 20043 With reference to development branch lines the witness explains that prior to World War I there was a subsidy arrangement, and from time to time Parliament passed a subsidy act with regard to branch line extensions. The general practice was to give a subsidy of \$3,200 per mile on the first \$15,000 of the cost and a maximum of an additional \$3,200 on the amount over \$15,000, with the provision that that extra subsidy should not amount to more than 50% of the excess cost over \$15,000. By that machinery, it was possible to obtain a subsidy up to as much as 50% of the cost of a branch line, and undoubtedly in the period of railway development it had a decided influence on the extension of branch lines.



Points out that the extension of branch lines or the construction of a development branch line involves an initial expenditure of a considerable amount of capital before any traffic can be expected. Says at present time cost not less than \$80,000 a mile and if country difficult can go as high as \$115,000 a mile.

20044

Witness says his department does not ordinarily recommend a branch line unless at full development it would pay interest upon the cost of construction.

Witness considers that from the standpoint of preserving a reasonable balance between interest bearing capital and equity capital, the provision that 40% of the cost of a branch line be provided as equity capital is the minimum.

Witness notes that U.S. roads have 45% of their capital as equity.

20048

Witness considers that the C.N.R. had a horribly unbalanced capital structure, which is creating a bad managerial atmosphere. Management thinks this situation should be remedied. To do this would mean that the C.N.R. should only be asked or expected to pay as fixed interest upon investment such amount as might be reasonable in the light of all the circumstances. With an institution such as C.N.R. that has no access to equity capital except through the government, and which in the past has been forced to borrow and pay interest upon every bit of its expansion, you would have a pyramiding capital structure of the C.N.R. even if you adjusted it now to a reasonable basis; and if in the future all the capital needed for expansion had to be borrowed you would have it once again climbing into a position of unbalance where you would have more fixed interest bearing burden than the general run of the railway industry.

Says this does not mean that the 40% provided interest free should not be expected to earn a return, although that return might not be available before some years.

20055

to

20056

Witness says rate of return used in railways calculations is 3% on 100% of the cost of the branch line, including interest during construction which is capitalized.

20057

Mr. O'Donnell notes for convenience of Commission that prior discussion re effect of development lines will be found in Volume 10, page 1316.



Concerning the rider which Mr. Gordon put on paragraph 1 on page 15 of his statement, Mr. O'Donnell tells the Commission Mr. Gordon was referring to those lines which in the course of prudent administration a commercial railway would undertake in keeping abreast of national development and in anticipating and creating a demand for its service. These are the lines he submitted should be financed to the extent of not more than 60% by interest bearing securities.

20058

Under the law railways which the government see fit to construct may be turned over to the C.N.R. for administration and operation. C.N.R. has not submission to make in that connection.

20068

Witness points out that in case of operations conducted by C.N.R. in Newfoundland the out-of-pocket cost of service exceeds the revenues that can be obtained and even by putting in additional capital there is no hope of recovering return on that capital.

States the Newfoundland Railway and Steamship Line are in need of very considerable equipment.

20061

Says altogether the amount of capital that will be needed in Newfoundland over the next ten years is very substantial.

Must be remembered that Newfoundland Railway is narrow gauge and everything bought for it is special and higher priced.

20061

Commissioner Angus asks how C.N.R. expects to get capital for Newfoundland projects.

Witness replies submission of C.N.R. is that if they get relief to extent contemplated, it would be the intention to include these capital amounts in the budget of C.N.R. and have them authorized by Parliament just as for any other part of the system.

Says railway would go to the government to get the money, either by government vote or by authority to float issues.

If they borrowed from the government would give government at note and if from the public under government guarantee would give public bonds. This would increase their fixed charges and that is why they are asking for relief.

20063

Witness says purpose of proposed C.N.R. adjustment is to get a fixed capital burden of interest-bearing securities which is manageable.



- 20061 Says broadly speaking purpose of submission of C.N.R. is that if the relief asked for is granted the C.N.R. would be free from a deficit position and have a moderate amount left over to be plowed back into the property and prevent the pyramiding of unprofitable capital.
- 20071 Commissioner Innis asks witness if he has considered effect of proposed adjustment on C.P.R.
- Witness replies that relief asked for is the minimum that is required to (a) allow C.N.R. on an average, with prudent management, to be free from deficit financing and (b) allow a reasonable stability of the capital structure. Considers C.P.R. with its higher traffic density is in more favourable position than C.N.R.
- 20075 Does not personally consider that proposed adjustment of C.N.R. would damage C.P.R.
- 20078 Witness points out that Mr. Cooper estimated that if all the adjustments that are recommended were made in 1949, C.N.R. would only have \$11 million available after paying their fixed charges and witness does not consider that for a year with the traffic volume of 1949, that is a very great margin.
- 20080 States that Newfoundland Railway does not belong to C.N.R. It is merely entrusted to them for operation. It is owned by the Canadian Government.
- Witness says that so far as operations are concerned there is no difference between C.N.R. lines and entrusted lines. Says accounts are consolidated and represent everything that is entrusted to C.N.R. together with what C.N.R. owns and controls in stock ownership.
- 20081 Situation in case of Hudson's Bay Railway slightly different. C.N.R. is an agent for operating, but do not include in their accounts results of operation of Hudson's Bay. This is the only railway they handle in this way.
- 20082 C.N.R. is managing Newfoundland Coastal Steamship Service under an entrustment order. Results of its operation are included in C.N.R. accounts.
- 20083 to 200877 Speaking of the \$ 00 million which Mr. Gordon submitted government should acknowledge as an indebtedness to C.N.R. to bear interest at 1% until discharged, witness states that in arriving at this figure regard was had to the history of past earnings and the future prospects as influenced by discernible trends.
- Considers another important bearing upon this matter is the inflation of the dollar.



20083  
to  
20087

Says railway also had to consider the effect of highway competition. They also had to consider the effect of air competition, which is eroding higher class passenger service.

Water competition was another consideration. It has been aggressive and is likely to be more so as facilities improve.

Another factor taken into account was the development function of C.N.R. It is fundamentally in a large part a pioneer railway. Points out as they extend development lines they dilute their traffic density and add to their capital structure.

On the positive side there is the expectation of increasing population in Canada which will mean a greater physical productivity in the country.

Witness points out that to bring about increased population in Canada C.N.R. has two instruments Colonization and Agriculture Department and Department of Research and Development.

Points out that population of Canada increasing at rate of 1% a year and physical productivity at 2% a year.

Considers it disturbing to find when you analyse railway revenues in relation to the gross national product of the country to find that in 1915 it was 9.41% and in 1948 6.8%, even after making adjustments for rate increases that had been granted by not yet in effect. This can be blamed in highway competition.

All these factors were considerations in arriving at figure of \$300 million.

20087

Says C.N.R. keeps active immigration offices in foreign countries.

Witness maintains that highway competition is eroding highly valued traffic. Points out that 92% of all land transport in Canada other than strictly local delivery is by rail. But 7% of transportation revenue goes to truck and 70% to railways. Railways forced for 70% gross transportation revenue to handle 92% of the business and that is reason for declining characteristic against gross national product.

20089

Points out C.N.R. made up of two types of road, one pioneering and the other intensely industrialized. It is in intensely industrialized area they feel highway competition more than any other railway in Canada.



- 20091 States inflation bears with particular severity on railways of low traffic density.
- 20093 Witness produces statement of examples to illustrate effect of inflation upon two railways of different traffic density.
- 20094 Points out that typical condition is that C.N.R. lags behind C.P.R. about 10% in traffic density.
- 20099 to  
20100 Witness explains Exhibit 215 which is a map intended to give an indication of the relative profit of different sections of the C.N.R. system. This particular classification of C.N. lines is based on gross ton miles per mile of line. Net revenue ton miles been available in detail when map prepared both would have been shown.
- Witness says the revenue ton mile is a measure of the effective transportation work performed, and the gross ton mile is a measure of the actual transportation work performed.
- 20102 Witness maintains that C.N.R. being a line of relatively low traffic density, it finds burden of sub-marginal lines greater than otherwise would be the case. As revenues decline in business cycles and under highway competition, management tends to scrutinize these thin traffic lines, and if traffic seems too far out of line compared to expenses, may apply to abandon service to improve the system net.
- 20108 Witness considers agreed charge a most important aspect of complex problem created by highway competition. It is about only way railway has of meeting the competition of motor vehicle.
- Says it is not because of advantage to railway agreed charge being urged, but because it is of advantage to shippers generally, particularly those who need railway service because they have nothing else available.
- 20111 According to witness an agreed charge is nothing but a special competitive rate, and that is the way it should be treated.
- 20116 Witness is of opinion that the railways will continue to be the backbone of our land transportation. They are the cheapest medium of land transportation.
- Considers uneconomic truck competition very serious. Estimates that if it was eliminated net revenues of Canadian Railways would be over \$100 million greater than at present.



20118

Speaking of water competition e.g., St. Lawrence waterways, admits that some of this is uneconomic, but does not consider it serious.

20119

Says railways move goods at an out-of-pocket cost of less than one cent a mile. Trucks cannot do it at less than three cents a mile.

Says trucks go after higher priced traffic and their out-of-pocket cost as they cannot it would be three cents per ton mile. Their true cost is probably around five and including upkeep of highway would probably be eight cents. When railway has a rate of 10 or 12 cents on this higher valued traffic it is easy to see what happens.

20120

A solution to this highway problem is difficult in Canada because you have a highway under ten jurisdictions and federal government has not seen fit to regulate interprovincial traffic.

Does not think restrictive legislation is the answer to the problem. It has been tried other places and failed. Nor has witness any faith in putting highway operator under same form of regulation as railway.

20121

Asked what he would suggest witness replies that he thinks agreed charge should be made effective and flexible so it can be used. Thinks certainly the jurisdiction of federal and provincial governments in highways and rail transportation and economic effect of present set-up should be carefully examined and hopes this would lead to a recommendation that would allow the two services to be co-ordinated because he knows there are opportunities where co-ordination will produce a better service than railway or highway by itself.

Railway has recommended a co-ordinated service for P.E.I. and are awaiting word from province as to whether they will give required license.

20124

Considers that the real highway problem is not that the railways are losing revenue, but that they are losing their ability to maintain the rate structure which is so essential to development. Says it is a national problem not a railway problem.

Asked if he favours subsidies to support the rate structure. Witness replies that he does not like subsidies. But says if you study the rate structure from a development angle you must realize that it is in fact a complicated subsidizing scheme. You subsidize the basic producer by allowing an excess charged on somebody else.



20125

Maintains that transportation is the primary producer that is the controlling factor in development.

Thinks that if something is not done about highway competition, there would be a tendency to look askance at extension of development lines, because railway lines financially disabled, and this would place a check on the development of the country.

20126

Witness admits that rather than face a decline in development and facing any other picture, he would personally prefer some form of subsidy.

20139

Witness thinks that whatever solution is worked out it should allow at least the appearance of a free market, where a person can operate a truck in competition to the railway and the shipper can choose his service as he likes. One great difficulty is that every railway rate is inter-related and the public do not realize it.

20144

Considers that the narrow gauge is suited to conditions in Newfoundland - to apply standard gauge would be too expensive.

Knows expenditure for terminals, new rails, new ships etc. in Newfoundland will be very large - would be over ten year period and run into tens of millions, but cannot give estimate.

20147

It was by decision of Government that Newfoundland Railways were entrusted to C.N.R. in same manner as Canadian Government Railways and not as Hudson's Bay. Witness does not know reasons for decision. Says C.N.R. pointed out to Government problem of operations in Newfoundland and asked and were granted permission to lay the case before the Commission. Says if they are given relief of \$134 million C.N.R. is willing to operate Newfoundland Railway and take their chance.

20155

Witness thinks it defies analysis as to whether or not the productive stimulus that there may be in the Crow's Nest Rates are justified or not.



20159  
to  
20161

Witness relates that the Research Dept. of C.N.R. reports to Traffic Dept. whether on the basis of costs a proposed rate is compensatory i.e., if will return enough revenue to meet the out-of-pocket expenses incurred. Traffic Dept. considers this along with other factors.

Out-of-pocket expense of traffic is what would save if that that traffic did not move - this may be very small on back haul business.

Says cost accounting is an attempt at scientific cost analysis - must be used with caution and prepared with a precise understanding of the nature of the movement and everything surrounding it.

Says even if a rate did not cover out-of-pocket expenses, might continue a rate e.g., on developmental business e.g., export grain to Saint John as by giving such rates the railway gets the traffic as to Montreal.

20166  
to  
20167

Says C.N.R. can only secure revenue if the country itself is prosperous and is producing and so long as there was a functional monopoly of railway rates, and you were sure in the sum total of your rate structure of getting enough revenues to meet your expenses, you had a very wide freedom of how you would apportion these costs between different shippers, and it might very well be prudent to ship low-grade commodities or any commodity at a very low rate if thereby you stimulated development and took your profits in the form of higher rates on secondary production. This has been the basis on which Canada has developed. Now C.N.R. gets two-thirds of their revenue from one-third of their traffic.

20168

Witness says he never knew of a competitive rate set to meet truck competition that was not remunerative to the railway. Reason is trucking costs, even on out-of-pocket basis, are at least 3 Or 4 cents a ton-mile. Railway is not running the risk of handling business uneconomically, but what trucks are doing is topping or skinning off the cream of the rate that was previously in existence and which was used to support other rates.

20169

This erosion of high grade traffic is bound to have unfortunate results in hampering the ability of the railway to extend low rates to basic commodities hauled a long distance.

20171

Witness thinks it would be better to leave question of whether rates compensatory or not up to the railway rather than the B.T.C. Is convinced there is no simple yardstick for determining whether individual rate compensatory or not. B.T.C. would have to have data which



20171  
(cont'd)

is available only in the files of railway management; it could not satisfactorily use rules-of-thumb.

20173

Witness says the allocation of a different type of locomotive to a particular territory changes the pattern as does the availability of car supply. Generalized analyses based upon system averages which are generally what is available at the present time to people outside the railway, are a very inadequate approach to cost accounting of railway performance.

20174

U.S.A. has used cost accounting methods similar to I.C.C.

Witness agrees with Commissioner Rogers that when rate-making left to railways, are leaving them with some sort of economic planning as to what will promote the general prosperity of the country and maintain their revenues over the period. Of course this is modified by regulation and possibly by statute.

20174

to  
20175

Mr. Jefferson said he limited developmental rates to one year - if didn't pay in one year would cut them out.

20176

Witness (Mr. Fairweather) would not put on an arbitrary limit - would have to study each instance on its merits.

Witness thinks there is no doubt that if U.S.A. were privately owned enterprise the amount of interest bearing capital that it could bear with security and maintain a credit standing is very small and might be zero - is a low density line with high operating ratio and great variability from year to year.

20180

Feels may not have gone far enough in present proposal for recapitalization, but will give an appropriate challenge to management to give railway fixed charges they ask for and expect them to meet them.

20181

Witness says tracks get 23% of revenue <sup>for</sup> handling 10% of ton-miles.

Mr. Bone for Automotive Transportation Association points out that part of truck revenue goes to private carriers.

20182

Private carriers not paid in cash, but witness says effect on railway is the same as if they were.

20184

Mr. Bone says no control on commercial trucker during war.

Witness disagrees. Thinks there was very effective control - could not get tires.

Admits that in 1943 commercial truckers moved 11 million tons according to D.B.S.



20186

Witness agrees air transportation also uneconomic in certain of its aspects, but is going through a developmental period - is basically expensive - some of its activities are subsidized. Was no objection to anyone using a more expensive mode of transportation if it gets value for it but should not lay burden on somebody else that is out of proportion to the benefit he may get.

20187

Witness doubts if railway passenger traffic covers out-of-pocket - planes have an effect on the travel habit. Some thousands of passenger train miles are unremunerative but railway has to run them in the public interest.

20188

Witness says railway cannot compete in volume and cheapness with pipe-lines.

20189

Witness says if railways free to use their competitive strength in this highway competitive zone, trucks simply could not operate beyond the zone where admittedly they have an advantage. Railways are not free to lower such rates because would be disastrous to the economy of the country for railway would have no revenue to cover losses in development areas.

20190

Witness says railway and truck rates in Eastern Canada are on a parity today only to the extent the trucker desires to handle the traffic. If traffic bulky or awkward, trucker just puts in a prohibitive rate.

20191

Mr. Hume says witness' discussion re uneconomic competition is based purely on a price or cost basis and ignores other factors such as flexibility, speed and less handling.

Witness says he did consider this.

20192

Mr. Hume goes through number of handlings in shipment by rail and by truck from Toronto to Montreal.

20200

Witness says trucks also have terminals and different types of vehicles in line haul and local P.M.V.

Mr. Hume says that is true of some of the large operators in Eastern Canada and not of industry by and large.

20201

Witness goes on to emphasize that there is a zone - a very substantial zone - in which the transportation economy of Canada is benefitted by shipment by truck.

20203

Says in 1950 railway rates probably \$50 million less than would otherwise be because railway tries to hold business from trucks.

Says there is a lot of traffic railways did not



20203  
(cont'd)

hold. Process of reducing rates to the point where they could hold traffic was too painful, so let traffic go rather than hold it at reduced rates.

20204

Witness says there is no price war between railways and trucks in Canada today in the ordinary sense of that term (i.e., progressive under-cutting) but whenever an individual has a large enough volume of freight to put his own trucks on the road, he forces down both rail and commercial trucking rates.

Agreed charge on petroleum in Eastern Canada came into effect because of potential truck competition.

20204

to

20205

Quibbles on whether regulation of trucks involves regulation of private carriers as Railway Association has suggested. Witness does not think should limit all trucks to, say, 75 miles but must consider the national interest in the control of trucks.

20206

Witness goes on to say have had many talks with truckers over the last 20 years re the desirability of co-ordination and have worked out some co-ordination projects with individual truckers.

20209

Witness relates that in Western U.S. a railway line of considerable length through a farming community was abandoned by reason of fierce truck competition, which took all high valued traffic and left railway with lumber, coal and grain. After abandonment property values fell 40% and people of community had to put up with a lower standard of living.

20212

With reference to proposal of C.N.R. to substitute buses and trucks for rail transportation in P.E.I. witness states it is intention of railway to put in their own trucks.

There is no regulation of trucking in P.E.I.

Evasdes question of whether C.N.R. had approached independent trucker to do work in P.E.I.

20213

Witness thinks there are places where the use of the highway will mean railway can make economies and community will get better service e.g., P.E.I. Have many places in Canada where C.N.R. supplements rail service with highway service.

Witness replies to Mr. Hume that his reference to co-ordination at page 20122 was not necessarily to co-ordination between railway and railway owned trucks. They have arrangements with individual truckers.

20214

Witness states co-ordinate action would not solve the basic problem of road-rail competition but the subordinate problem of fitting the two services together where there is a real chance for economy and improved service is something that is receiving constant attention.

Witness can't say if railway has ever published joint rates with trucks.



In answer to Commissioner India witness says there are not very many places where a branch line holds very attractive possibilities as the railway is short and, but if you look at the entire country of the country there are. U.S.R. has several other study at present time. Would be easier to build construction on these lines if rate structure not eroded by highway competition.

20218  
to  
20219

In examination by Mr. Southworth witness discussed with statement by Mr. Bailey (20218-20219) with that Canadian railways had nowhere ever reached a rate level which would price the railways out of business. Witness says if rate adjustments presently in effect and in prospect under R.F.R. were granted in full, having regard to this matter of highway traffic, he has real fear that the production economy of the country would be interrupted and producers would no longer see enough profit in their operation to produce. Mr. Southworth had some fear.

20220  
to  
20221

In reply to Mr. Southworth witness says out-of-pocket ratio on passenger traffic at U.S.R. is about 70% i.e., out of \$1.00 of revenue - out-of-pocket expenses is 70, and contribution to general overhead is 30% - would have different situation if had to run more car or other train.

20222

Commissioner says rate is applied same way as in commodity rates, and established how rate would work if railway handled no passenger traffic at all, how would it work out.

20223

Witness replies U.S.R. would probably find that it would have effected a greater reduction in volume than reduction in revenue.

20224  
to  
20225

Mr. Southworth says that the trucks are taking all the high grade traffic of the railway and that even if they will be handling only low grade commodities like coal. The Norfolk and Western is making money handling almost entirely coal.

20226

Witness thinks railways have largely withdrawn from the field of transportation where the truck is the more economical unit, but still have to handle a few trains which truck does not see fit to take.

20227

Witness replies U.S.R. rates are workable on basis of over 100 miles.

Witness would not say that terminal costs have increased proportionately more than line-haul costs.

20228

Witness admits that in considering whether railway rates have approached the limit of the increase possible would have to consider inflation in prices generally and its operating costs of materials. Also affected by speed with which government could raise.



2244  
to  
2245

Witness agrees that anything that would reduce U.S.R. would weaken country - U.S.R. has to depend on its own resources - but this not historically always the fact.

2246

Witness has no doubts as to failure of U.S.R. in setting rates.

2247  
to  
2248

Considers it decidedly desirable to maintain U.S.R. as a healthy and sound enterprise competing with C.N.R.

2249  
to  
2250

U.S.R. should have corporate revenue to finance itself, but witness says this is a matter for U.S.R.

2251

After much reading witness agrees that U.S.R. has a problem in seeing that its interest bearing capital does not get too heavy.

Witness says if company could sell common shares would be one solution - re-investing earnings is another.

2252

Mr. Evans asks if surplus earnings merely provide all the capital that is needed by a company.

Witness can't agree - has been struck by fact that has been very little equity financing done by industry in the last couple of decades.

2253

Witness thinks U.S.R. has lost a reasonable lot of plugging back earnings.

2254  
to  
2255

It is not part of the U.S.R. calculation that U.S.R. should be permitted for rate-making purposes - all we really give the matter great consideration. U.S.R. is really trying to get out of the position.

2256  
to  
2257

U.S.R. has not the slightest threat of turning the U.S.R. and witness does not take the personal will.

Until many problems are solved U.S.R. could not be used as a jurisdiction.

2258  
to  
2259

Witness can't say whether U.S.R. would support an amendment to the Railway Act that U.S.R. must have sufficient earnings to maintain itself as a private enterprise, even if could be shown that some damage would result to U.S.R. from U.S.R.'s plan he would not give an answer - would not deal with a hypothetical situation.

2260  
to  
2261

Mr. Evans for U.S.R. points out that is the fact that the U.S.R. fought for the view that its funds be taken into account. U.S.R.'s fear is that after re-capitalization of U.S.R., surplus earnings which they are bound to be turned over to the equally wealthy holders or any of them will lead to pressure to take U.S.R. the partnership.



11111

Mr. O'Donnell for C.R.R. is quite satisfied to leave up to R.R.A. whether one railroad or all railroads need an particular. In last 25 years C.R.R.'s requirements used as particular, but talked against the requirements of the others as well.

Chairman maintains that position of particular is not just between C.R.R. and R.R.A., but shippers involved too.

11117  
to  
11118

Mr. Evans explains that C.R.R.'s proposed amendment to Section 105 of the Railway Act would require that rates be sufficient to provide a fair return upon the investment of the railway property of the C.R.R. and R.R.A. may come time to time concerning the investment in railway property upon which the return is to be calculated and the rate of such return.

This does not include the needs of the R.R.A. when taken into account, but does make it necessary by statute that C.R.R. should have a fair return.

11119  
to  
11120

Chairman says would be greatly to advantage of C.R.R. to get concurrence of R.R.A. in the amendment, but doubts if asking Mr. Fairbank is the way to do about it.

Chairman says Mr. Evans' procedure and matter will be covered in Mr. O'Donnell's argument.

Mr. O'Donnell says he will not support - will argue the matter later.

11121

Mr. O'Donnell says C.R.R. is not making R.R.A. too to take care of itself. R.R.A. through the years, except for last short lac, have been given power to keep them in as healthy a position as possible. Mr. O'Donnell objects because amendment would give rates at a rate of return basis.

11122

Chairman points out whether C.R.R. should be used as basis for rate-making. Would leave this to C.R.R. would have to take into account the cost of capital invested in C.R.R. is entitled to a fair rate of return.

11123  
to  
11124

Chairman points out also that labour costs are most important factor in increasing railway rates and that it is unrealistic to pay too much attention to rate base and rate of return.

11125

C.R.R. thinks R.R.A. should be left undisturbed no principles it would follow regarding the general level of rates.

11126

Is asking for an increase in rates R.R.A. looks to its own requirements and those of C.R.R.



20301

Mr. Evans for C.N.R. states that bearing in mind that his prime interest is not that the C.N.R. should not be relieved but that if they should have large surpluses there should be some way in which it can be made necessary that those large surpluses should not all be left in the hands of the Canadian National as is to bring about a pressure to make them the yardstick for rate making and to take into account after this re-nationalization has been forgotten in the minds of the public

20308

Mr. Evans says C.P.R. have no doubt in their mind, and he is sure the Commission has not in its mind, that when the government sees large surpluses held by the C.N.R. there will be a tendency in a great many directions to say, "Why should the Canadian National have these big surpluses? Why should the freight payers set up these large surpluses? There ought to be a reduction in rates."

20310

Commissioner Angus asks if the suggestion is not that the capital structure itself might provide a certain amount of pressure by indicating a sort of expected level of dividends.

Mr. O'Donnell for C.N.R. replies that he is instructed the situation would be that for every dollar the C.N.R. would have the C.P.R. would have a dollar more in ordinary years, apart from years such as the war.

20314

Mr. O'Donnell points out that the Chief Commissioner, when invited by the provinces to disregard the C.N.R. completely said this at page 14 of the 211 Judgment:

"I cannot accept the contention of counsel for the respondents, that the requirements of Canadian National Railways should be entirely disregarded. The fact that Canadian National Railways are publicly owned is not a good reason for exempting the users of the railways from paying just and reasonable rates for services rendered. To do otherwise can only result in calling upon the taxpayers to meet large deficits which is something which I think desirable to avoid as far as may be reasonable and practicable.

"One regard must, I consider, be had to the needs of all the railways."

20318

Mr. Frawley for Alberta points out that it was stated in the Judgment of 211 Case at page 34 that to arrive at a just and reasonable sum between the rail-



20318  
(cont'd)

ways in fixing the rates, could best be accomplished by taking the requirements of the C.P.R. as the guide or measure.

20319

The Chairman says that was the Board's yardstick, but question is his mind was as to the yardstick of the Railway Association of Canada.

Mr. Evans points out that they did the same thing. They recognized that that was going to be the basis of the application, and it was made perfectly clear in particular in the 20% application that all railways agreed to accept what the C.P.R. might find was necessary for the Canadian Pacific.

Mr. McConnell adds that this was provided the formula in the 21% case which the C.P.R. had fixed was not to be disturbed on the review, but the C.P.R. said, if that formula is to be disturbed, then its position will have to be looked at.

20320

Mr. McConnell points out that in Eastern Rate Case, 22 O.R.C. 4 (7 F.T.R. 145 and 147) judgment of Sir Henry Brayton, who was then the Chief Commissioner, said in part:-

"There can be no question insofar as Eastern Canada is concerned, that any injustice could possibly be done the shipper in accepting for primary consideration the actual results of the Grand Trunk earnings as a basis of rates."

Mr. McConnell further states that in 1917, in the 15% case, there is statement again by Sir Henry Brayton, referring to the tariff situation and the railway subject where he says:-

"There is no reason why the business of the ~~business of the~~ Canadian Northern should be conducted at a loss simply because the country owns it."

20322

When Commissioner raises questions consistency of C.P.R.'s position re yardstick, Mr. McConnell answers that C.P.R. is simply saying that C.P.R. cannot completely ignore this very important part of the railway system when fixing rates.

20323

Mr. McConnell says that section 125 of the Railway Act should not be altered in any way.

20326

Mr. Evans replies to Mr. Macle that the provinces, whatever may have been their basis for opposition, have consistently agreed that the C.P.R. was the proper yardstick. That they have tried to do has been to cut down the needs of the C.P.R. and even in some cases to suggest that there were no such needs, but they never at any time have taken the position that the proper yardstick was not there.



20327

Mr. Evans points out that the position in Canada is a little peculiar. We have two large transcontinental systems; that, to begin with, is the one thing that is lacking in the U.S. The second is that the other railways are minor in mileage; they are very small local railways. The third thing and the most important thing, is that we have a publicly owned transcontinental system competing with a privately owned one.

20328

Mr. Evans maintains that 20% on the Board's formula and forgetting all the allowances of expenses that are involved in that formula, 20% would produce for the C.P.R. in 1947 a surplus of only \$14 million, a million short of the surplus the U.S.R. said was proper. He says that on a comparable basis - and he is quite prepared to prove these figures - the U.S.R. with a 20% increase in rates in 1947 would have had a surplus of more than \$28 million or about double that of C.P.R.

WITNESS: MR. S.W. FAIRWEATHER

20332

The witness says there is approximately a ten per cent difference between the traffic density of the U.S.R. and that of the C.P.R., C.N.R., being about 10% less dense than the C.P.R. That has the inevitable effect that the C.P.R. has a cushion of net revenues which the C.N.R. does not have.

20334

Witness thinks that as industry of the country increases, and as we get more population, there will be a continuing tendency for the C.N.R. to remain inferior in traffic density to the C.P.R.

20337

It is the considered opinion of the witness that if we are desiring to put the capital structure of the C.N.R. on a basis where it would be completely self-supporting, the reduction in the capital structure would have to be more drastic than it has been suggested it should be. Says he has no reservations on that score. That is why he said reduction which C.N.R. is asking is modest.

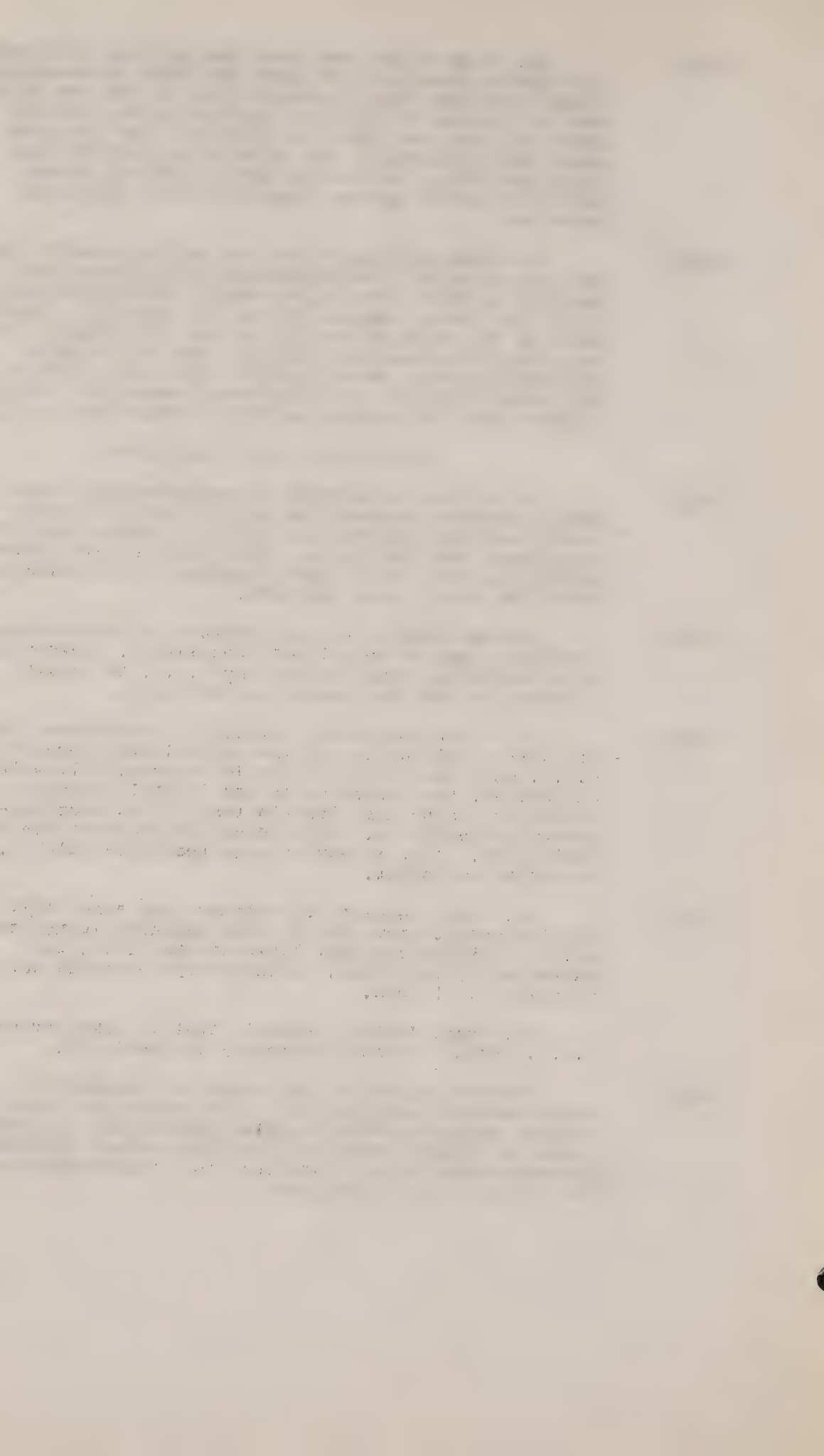
20341

Mr. Evans suggests to witness that since 1917 the traffic density per mile of line measured in net ton miles of the constituent lines of the C.N.R. has increased by about 90%. Witness says he would not be surprised if it has.

Mr. Evans further suggests that in same period C.P.R. growth in traffic density is about 37%.

20347

Witness maintains that there is a declining characteristic and that the chief reason for this declining characteristic is this erosion that is taking place by highway transport into the railway traffic on an unconsolidated basis. Says that is a fundamental and to him crystal-clear conclusion.



20375

Mr. Evans points out that I.C.C. uses rule of thumb methods very extensively in determining the lower limits below which rates must not go to be compensatory.

20377

Witness states that passenger revenues are not sufficient to pay all of the costs that may be allocated to passenger traffic.

20377

to

20378

Mr. Covert points out that in I.C.C. decisions commissioners are almost unanimous that passenger traffic does not pay its way, but it is something that the railways must continue.

Witness thinks this a fair statement. Thinks that if you define "by paying its way" that it would pay all of the expenses that might be allocated to passenger service certainly railway does not get enough revenues to do any more than that at the very best picture that he has ever been able to make.

Witness states further that there are many passenger services that do not even come within shooting distance of meeting the expenses incurred. These are mostly to be found in sparsely settled areas.

Mr. Covert points out that on applications for abandonment the I.C.C. had adopted the attitude that the balance is in favour of necessity and convenience even though the railways may operate services at a considerable loss and they have in many cases sold necessity and convenience to the public overcomes the losses suffered by the railways in carrying out these services.

20379

Witness thinks it would be very helpful if we had a broad national transportation policy that would enable public convenience and necessity to be served before a competent tribunal having jurisdiction over all the services. What railways have found is this:

They operate a passenger service authorized and directed by the Board of Transport Commissioners, then they find the Provincial Transportation body will authorize a bus operation in the same territory. They go to that Provincial authority and they say, you should not authorize this operation because national convenience and necessity requires the railway to operate a train service. It is the only medium of transportation that can furnish an all-weather service to the community and it is unfair to the railway that it should find a condition in which it has to maintain services and maintain equipment that practically nobody uses in the summer time, and then in the winter time when the roads are closed or at such times



20379  
(cont)

in the spring and fall as buses are not permitted to operate on the highway, everybody turns to the railway for a period. The general attitude of the provincial bodies has been that they recognize this as a problem, but it lies beyond their jurisdiction. Similarly, when they go to the Board of Transport Commissioners and say, here is a situation, all of our traffic or practically all of it has been diverted to the highway, and we desire either to withdraw completely from the passenger service, or to make a co-ordination with a highway service which would effect economy, they find the Board of Transport Commissioners very reluctant to grant them the desired authority.

20380  
to  
20381

In the question of abandonment of railway service and substitution of co-ordinated bus service the witness says that there is a great deal to be said between two fires: the provinces refuse to look at national convenience and necessity, but only at the local picture, and P.T.C. say they have no jurisdiction over the highway picture and because there is public convenience and necessity they tend to feel that the railway service must be continued.

Witness thinks this is a field where national transportation policy could be worked out and that the duplication of service between highway bus operation and railway train service could be materially lessened to the general advantage of the transportation economy.

20411

WITNESS MR. ALLEN NORTHLEY JONES

20416  
to  
20417

Witness refers to Group of Institutional Investors et al vs. Chicago, Milwaukee, St. Paul & Pacific Railroad Co. case in the United States Supreme Court, 318 United States Reports, page 583 where it is stated by Mr. Justice Brandeis in part as follows:

"Value is a word of many meanings. It gathers its meaning in a particular situation from the purpose for which a valuation is being made. Thus, the question in a valuation for rate-making is how much a utility will be allowed to earn."

20417

The witness goes on to say that in a number of instances the Supreme Court has said that in railroad re-organization proceedings the most important fact for the I.C.C. to consider in valuation is past, present and prospective earning power, but that due consideration must also be given to the investment in the enterprise and all other relevant facts.



20417  
to  
20418

Witness again refers to Milwaukee case, 318  
United States Reports at page 342 where Supreme Court  
has stated that:

"a valuation for reorganization purposes based  
on earning power requires, of course, an  
appraisal of many factors which cannot be  
reduced to a fixed formula. It entails a  
prediction of future events, hence 'an  
estimate as distinguished from mathematical  
certitude is all that can be made.'"

Witness says as it is difficult to accurately  
estimate the amount that will be available for fixed  
charges, in any capitalization of the U.S.R. great  
care must be taken in estimating the earning power  
of the railway so that the scaling down of its capital  
securities is not too drastic. Furthermore, due  
consideration must be given to all other relevant  
facts, including the value of its property investment  
and a fair return on such investment.

Witness says he is speaking from the point of  
view that there is fair competition with the U.S.R.

In this connection he notes that in the December  
31, 1949 balance sheet of the U.S.R. no depreciation  
is provided against road accounts, which would seem  
to indicate that there is room for a recapitalization  
through the provision of such depreciation reserves.

20419

Witness says it is true that, if an investment  
banker were advising with a commercial enterprise  
as to the proportions of capital that should be re-  
presented by fixed interest securities (and he em-  
phasizes the word "fixed") he certainly would not  
recommend as great a proportion of fixed interest  
securities, as in the case now with the U.S.R. He  
would, however, expect a recapitalization under which  
each class of securities would in normal times earn  
and pay a return to its owners.



20424

Witness says the money for modernization and the acquisition of items which increase efficiency and tend to reduce unit costs in the case of railroads in the United States or in the case of the investor-owned railroad in Canada, can come and should come from three sources, namely: (1) depreciation retained from traffic revenues, (2) a portion of the net earnings not distributed to the owners in the form of dividends, usually referred to as retained earnings, and (3) new and additional capital furnished by investors through the purchase of railroad securities.

20425  
to  
20426

Witness points out that for funds to be available from "retained earnings" and from "new capital furnished by investors" it is necessary that an enterprise such as the C.P.R. should have a satisfactory "earning power" from rail operations and, in addition, if there is to be investor confidence in the enterprise so that investors will furnish new capital on reasonable terms, investors must have the belief that the earning power is not and will not be in serious jeopardy.

Witness says he means by satisfactory earning power that an enterprise such as the C.P.R. must have sufficient rail income to cover rail operating expenses, to cover interest and other fixed charges such as rents, and to cover a fair dividend on preference and common stock, with a surplus to retain and re-invest in the property. Says it is evident that, if "retained earnings" are to be a source of funds to spend for additions and betterments, there must be earnings in excess of operating expenses and fixed charges which can be retained.

20430

With regard to the C.P.R. the witness says that it would seem that with the large annual expenditures for replacements and additions and betterments that are advisable, retained earnings could not be expected to fill the gap completely between depreciation and the amount that should be spent for such replacements and additions and betterments.

20432

Witness points out that for the C.P.R. depreciation, on the basis allowed by B.T.C. in the year 1945 amounted to \$18,000,000 and the cost of replacements, additions and betterments amounted to \$56,000,000. Says average depreciation for four post war years for C.P.R. was \$17,500,000 a year, and the average amount spent for replacements, additions and betterments was \$40,000,000 a year, and the percentage that depreciation furnished of the cost of replacements, additions and betterments was 44%.

Says C.P.R. had no railway earnings after dividends to retain and invest in the property in the period 1946-1949.



Thinks the C.P.R. was fortunate, however, in being able to retain some of its "other income" for replacements, additions and betterments, but the high level of C.P.R.'s "other income", based as largely as it was upon the high price that Consolidated Smelters was receiving for its metals, is not continuing.

20434

Witness points out that during the period 1946-49 C.P.R. paid back approximately \$33,000,000 to investors in equipment trust and other obligations, so from their sales of \$69,000,000 of securities they received no new money from investors, but repaid them a net amount of approximately \$14,000,000.

20439

Witness says the amount of money which may reasonably be raised by equipment trusts obligations is limited because, if a railroad keeps selling equipment trusts each year and there are equipment maturities each year, there is merely a revolving fund and no additional capital is being obtained from the investor, inasmuch as maturities get to be just as great as the borrowings and the railroad is not getting ahead with making additions.

20440

Witness points out that as of the end of 1949 only 5.0% or \$2,959,000,000 of the \$59,280,000,000 assets of the U.S. life insurance companies, was invested in railroad securities, whereas 16.2% or \$2,832,000,000 of the \$17,432,000,000 assets in 1929 had been so invested.

Similarly only 3.6% or \$735,869,000 of the \$20,471,000,000 assets of the mutual savings banks was invested in rail securities at the end of 1948 compared with 14.0% or \$1,540,038,000 of the \$11,018,317,000 assets in 1931.

Says for Canadian life insurance companies much the same situation exists. At the end of 1947 total admitted assets of these life insurance companies were \$3,919,100,000, of which only \$19,149,000 or .49% of the assets were invested in railroad securities, whereas in 1929, of total admitted assets of \$1,414,734,000, \$15,434,000, or 1.09% of the assets, were so invested.

20441

Speaking of the decline in railroad credit and some of the steps that should be taken to re-establish a better credit position for the railroads and to restore investor confidence in them, the witness thinks that basically what is necessary is that earning power should be restored and the ~~XXXXXXXX~~ belief that earning power is not and will not be in jeopardy.

Witness reiterates that if the people of Canada are to have a strong, healthy and dynamic C.P.R. the earnings of the C.P.R. must be such that not only the operating costs of business are covered, but also the costs of wages of capital must be covered.



20442

Witness maintains that if the C.P.R. is to have sound credit, the competitive position of the C.N.R. and the C.P.R. must be fair in the matter of passenger and freight rates.

20445

Witness thinks there is a serious question whether the C.P.R. could remain in the standard if the C.N.R. were granted the relief it has requested and is not required to use earnings over and above its reduced fixed charges to pay a return on its equity capital.

20448

Witness points out that under C.N.R. recapitalization plan there would be surplus earnings of approximately \$60,000,000 after the \$15,000,000 of net charges on the railroad's net debt.

With such a sum, and the C.N.R. then as the yardstick, there would certainly be strong agitation for lower rates by such interests as advocate rate reduction. If the rates were reduced as a result of such agitation, the taxpayers of Canada would be deprived of the relief to which they are entitled by way of a return on the amount they have invested in the C.N.R. and the position of the C.P.R. would be gravely imperilled.

On the other hand, if earnings in the future are at a low level the C.P.R. may be forced to request increases in rates. In such a case the C.N.R., if it is covering its net charges of \$15,000,000 with no additional sums required to be paid out as a wage on capital invested in the enterprise, it may not go along with the C.P.R. in its request for increased rates.

20449

Witness continues, saying that the likelihood that the C.P.R. could then secure increases adequate to meet its requirements would be lessened. If the C.N.R. did join in the request for an increase in rates, and rates were lifted so that the C.P.R. could earn an adequate wage on its capital, the C.N.R. might then start accruing relatively large surpluses and there would again be pressure for reduced rates. In any of the foregoing cases, first the credit position of the C.P.R. would be endangered, then its ability to perform an efficient transportation service would be impaired, and eventually the possibility that it might have to be taken over by the Government and supported by the taxpayer would arise.

20450

It is the firm opinion of the witness that if the C.N.R.'s proposals were adopted, that whether the C.P.R. or the C.N.R. or both become the yardstick in rate matters, the C.N.R.'s earnings after the reduced fixed charges would have a material effect in the fixing of the rate level.

Says if the wage required to be paid on C.N.R. capital is reduced to approximately \$15,000,000, which is only some 3% of its gross revenues and only about 1% of the capital invested in the enterprise, his firm opinion



is that the C.P.R. would be put in a disastrous position and great disservice would result to the people of Canada.

20462

Witness says that in public utilities in the U.S. the general theory is that returns to investors should be based on a fair rate of return on a fair rate base.

20465

Witness would much prefer to see a capital structure with less than 50% of debt.

When asked for a simple rule as to the basis that the funded debt should bear to the equity capital, witness replies that as far as his own firm is concerned, that in talking to companies about raising money he advises, and it varies with the type of industry, that the debt should not be more than 50% and should approach one-third of the capital structure; in other words, that there should be 50% in equity and 50% in debt, and that in a commercial enterprise it is much better to strive for the 33% in debt and two-thirds in equity.

20467

Witness refers to his testimony in the 20% Case where he said he thought the C.P.R. should strive to get its debt down from the figure where it is now, between 45 and 50% of its capital, down to a figure nearer 33 1/3% because that would improve the position of the equity holder and would enable them to get equity capital more quickly.

Witness points out that in the case of the C.N.R. the situation is different in that the capital does not have to come from the investing public. They get their capital from the Government. That is a little different, and there has not been any requirement made that there be any payment made to the Government on some \$700 million of equity capital now owned by the Government.

20486

Witness agrees that the reason C.P.R. wants cushion of equity capital is because if a depression comes and there is nothing but funded debt, there may be a foreclosure.

20487

to

20488

Witness agrees that there should be a recapitalization of the C.N.R. Admits it may not be for a person from U.S. to say so, but he means from a financial point of view the fixed interest charge and the \$1.3 billion is large, and he would have no hesitancy in saying that if he were in the position of the C.N.R. he would want a recapitalization. Says if there is to be a recapitalization he would hope that it would result in such a fashion that the credit of the C.P.R. is not hurt thereby.

20488

Mr. Covert points out that one problem of the private enterprise is to so adjust its funded debt and its equity capital that if there is a depression they will have that cushion. Queries witness on the ideal situation in a



depression being to have entirely equity capital.

Witness does not know whether it is ideal, but says it would be the safest position.

20493

Witness says that back in 1920 6% return on property investment was the original figure that the I.C.C. used as a theory in rate-making; and then that theory was taken out. Says U.S. railways averaged 6% in one year during the war - but in 1948 it was only four and a fraction per cent, last year it was something under three, and there has been a much greater increase in rates, of course, in the U.S. than in Canada.

20496

Witness says if C.P.R. has to make a greater investment, has<sup>2</sup>enlarge its capital, then must consider what wage for capital is necessary to raise that money in the market.

20518

Looking at the position of the C.P.R. witness says he would not be worried about C.N.R. even with earnings of \$50,000,000 if there was a capital fund of some reasonable amount, figured out about what it should be, that would be allowed to be retained and spent for additions and betterments, and that the income after that went to pay interest on income bonds.



20557

Witness thinks principle objective as expressed by C.N.R. plan would appear to be that the fixed charges must come down.

20558

In the case of the C.N.R. with the business it is doing and might be expected to do in the future, witness' opinion is that there should be as a return on the investment of that vast enterprise, a net return of some \$15 million or \$17 million a year.

20559

Witness thinks that earnings on C.P.R. common stock should go to somewhere in the neighbourhood of 10%

Thinks dividends should remain at 5% and the remaining 5% be put into surplus.

20560

Witness points out that if C.P.R. were able to earn 10% on the common stock from the railway enterprise, and retained half of that for reinvestment in the property and paid a 5% dividend out of railway earnings, it would leave room for an increase in dividends above the present dividend by payment out of non-railway or other income.

20562

In the opinion of the witness if the need of the C.N.R. was determined purely on the basis of meeting a fixed charge of from \$15 million to \$17 million with no requirement to pay any return on the equity capital held by the government, in that case it is conceivable that the freight rate that would support that might be set at a lower figure than would support the C.P.R. and allow it to live and earn and pay a return on its equity capital.

20602

It is the view of the witness that if a fair return was made to the existing C.P.R. stockholders, it will follow that they will be able to raise new capital.

20609

WITNESS MR. HENRY GORDON NORMAN

20611

Witness refers to Drayton Acworth Report, 1917, page 44 and page 72 where states:

to  
20612

We would go further and lay it down in terms in the Act of Parliament creating the Board of Trustees that it was the duty of the Trustees to operate their system as a commercial concern, and to make no general reduction in rates, unless ordered so to do by the Railway Commission, until interest at a reasonable rate was earned on the whole capital value ....



20614

Refers to The Royal Commission to Inquire Into Railways and Transportation in Canada, 1931-32, paragraph 189, page 60 where stated:

" . . . . In determining what is fair and reasonable to the railways regard should be had inter alia to the cost (including the remuneration of the capital invested) of providing these services".

20623

to

20626

Witness points out that the C.P.R. has its loss lines and marginal lines in a proportion comparable to that of the C.N.R. in relation to its total mileage as evidenced by statistics which are set out on page 20626.

20626

Witness makes general observation that where government agencies undertake commercial enterprises, great care should be taken to avoid the commingling of commercial operations with government costs and government subsidies.

20627

Witness is of opinion that the government enterprise in the railway industry should be organized, in so far as possible, on a basis which will meet the following objectives:

- (a) Clear segregation of the operations which are undertaken solely as a matter of government policy. The deficits from such operations should be met by specific annual appropriations by Parliament. Undoubtedly the Newfoundland railway and steamship services are a good example of this type.
- (b) The placing of the commercial or self-supporting part of the enterprise on a basis comparable with the investor-owned companies as to capitalization, operating expenses (including taxes and depreciation) and charges payable as an over-all return on capital.
- (c) The showing by the commercial part of the enterprise of the full interest cost of government funds invested. Interest on government capital should be payable if earned, should be cumulative to the extent not earned so that the government would not consider that any part of its investment has been paid back out of surplus earnings until it has received interest in full.
- (d) The establishment by the regulatory bodies concerned with the operations of railways in Canada of adequate rates and



tolls so that all the railways in Canada will be able to carry out the recommendations (b) and (c).

20629

Witness notes that the second proposal of C.N.R. involves an immediate grant of \$100,000,000 of government credit bearing interest at the rates of 3% per annum until paid in cash.

States that to the extent that the grant may be used to cover future property additions, it would seem unusual to request a blanket appropriation extending so far into the future. Thinks that the result of this proposal would be a hidden subsidy in the neighbourhood of \$9,000,000 granted in perpetuity.

20632

In the opinion of the witness the effect on the C.P.R. of the C.N.R.'s proposals should be considered from both the rate making point of view and also the financial and competitive point of view. Concerning rate making says in part as follows: The effect of the first two proposals is to give over a billion dollars of interest-free capital to the Canadian National, which is equivalent to a subsidy of approximately \$30 million per annum. It is proposed that this be further augmented each year in the future by the portions of property additions covered in proposal 3 and, of course, there is the further effective subsidy represented by the exemption of Canadian National from income tax.

20633

to  
20634

Witness thinks that some sections of the public will use any comparison which appears to be favourable to them in either resisting an increase or clamoring for a reduction in rates.

States that Exhibit 256 showed that had the proposals of the C.N.R. been in effect from 1940 very sizeable sums would have been accumulated and thus might have prevented the freight rate increases authorized since 1947. Seems clear to the witness that the effect on the C.P.R. would be disastrous regardless of whether or not sizeable funds were accumulated. If the rate structure is such that the C.N.R. is unable to accumulate surplus earnings after an effective subsidy in excess of \$30 million per annum, certainly the C.P.R. will not be able to earn a sufficient amount to enable it to remain in a sound financial condition.

Witness concludes that the basis for rate making should be laid down by law as a reasonable return on a proper determination of property investment used and necessary to give the transportation service demanded by the public. In this case it would again be necessary to eliminate from the property investment of the C.N.R. such property as is operated from



a strictly national governmental policy and on which no return should be expected, this property to be operated on an agency basis for and on behalf of the government.

20635

Witness refers to section 114 of the Duff Report, 1931, which deals with the competitive aspect when one railroad is privately owned and the other backed by the long purse of the state.

20636

to

20638

Two sheets are produced by the witness showing relative positions of the C.P.R. and the C.N.R. resulting from the re-capitalization proposals of the C.N.R. for the year 1949 if the 20% increase had been in effect throughout the year and if the C.N.R. had enjoyed throughout that year the benefits of their proposals.

20639

Witness points out that sheet 1 shows the surplus which would have resulted to the C.P.R. in 1949 on the formula adopted by the B.T.C. in its judgment dated February 28th, 1950, if a 20% freight rate increase had been in effect throughout the full year.

Sheet 2 shows that the C.N.R. under these circumstances would have ended the year with a surplus of \$28,867,000 or approximately twice the surplus of the C.P.R.

20640

Witness assumes that the national transportation policy of Canada is to maintain a first class railroad system divided into two competing transcontinental enterprises, one owned by the government and the other owned by the investors. Such a policy, in his opinion, would be completely undermined by the adoption of the drastic subsidy proposals submitted by the C.N.R.

20642

Witness admits there may be some merit in the C.N.R. request that the total fixed charges be reduced in order to provide greater flexibility and to avoid deficits in periods of reduced traffic. In his opinion reduce this might well be accomplished by converting the indebtedness to the government, which arose through the repatriation of the British securities to income bonds.

Suggests this instead of suggesting conversion of all the indebtedness to the government in order to keep the fixed pay-out requirements of the C.N.R. on a more comparable basis with those of the C.P.R.

20642

to

20643

Witness summarizes his views as follows:



20642  
to  
20643  
(can't)

1. That the imbalance between revenues and the increased costs of labour and materials should be lessened as much as possible by further freight rate increases.
2. That \$151 million of interest-bearing obligations held by the government, which were issued in connection with the repatriation from the United Kingdom of C.N.R. securities, should be exchanged for income bonds in accordance with the suggestion of Mr. H.C. Vaughan and so reflected in the balance sheet.
3. That the acknowledgment of an indebtedness by the government to the U.S.A. of \$100,000,000 should not be considered.
4. That future development lines, other than those created for national policy reasons should, like all other additions and betterments, be financed in the normal commercial manner, and those created for national policy reasons financed entirely at government expense and their operations segregated as a government enterprise until they become commercially sound or become an integral part of the system.
5. That a portion of surplus earnings, after payment of interest fixed and contingent, should be retained to provide funds for improvements and betterments and the balance paid to the government as a return on its equity capital.

20669  
to  
20670

Witness suggests that there should be a valuation made to determine a rate base for both railways.

20703

Mr. Frawley asks witness if a rate of return next month should result in a dollar need, for instance, to the C.P.R. of something in the order of \$65 million, would he think that that should be awarded to the U.P.R. without further ado.

Witness replies that he does not think it would be awarded without any further ado. But does think will find the same situation as exists today in the U.S. where, under the I.R.R. they do have this rate base and it is used as a measure. Admits it is not lived up to, but is a measure. And then they arrive at a figure that is equitable to everybody concerned.

20707

Witness agrees that whatever the U.P.R. requirements were, properly considered, that would be a check/balance on the rate of return.

and



20711

Witness corrects statement made by him at page 20709. He had said cost of Consolidated Smelters investment was \$2,412,000. That amount was taken from the C.P.R. report but that is the par value of the stock and not the cost. Has since been advised by accounting personnel of C.P.R. that cost was \$17,046,000. for 51% of the capital stock which C.P.R. still own.

20719

Witness is asked by Mr. O'Donnell if he thinks they were at cross purposes when witness was telling about the manner in which the requirements of C.P.R. were used as a check and balance on rate of return figure.

Witness thinks they were at cross purposes to the extent that it should continue after the transitional stage. As to the transitional stage, the Board would naturally look at their previous judgment.

20730

Witness suggests in reply to a question by Commissioner Angus that the basis of fixing freight rates should be on the basis of a fair return on the investment and that if that is a basis to be used he sees no objection to the C.N.R. being a yardstick along with the C.P.R. Considers this should be a fair return on the property investment to the exclusion of the investments made for the purpose of national policy.

On that basis witness would see no inherent difficulty in using two yardsticks, each to some extent being a check on the other.

20737

Witness advocates the placing of the commercial or self-supporting part of the C.N.R. enterprise on a basis comparable with the investor-owned companies as to capitalization, operating expenses (including taxes and depreciation) and charges payable as an overall return on capital. This is in effect saying that he thinks commercial part of C.N.R. enterprise should pay income taxes.

20761

Chairman asks Mr. O'Donnell and Mr. Evans if either of them interpret the C.N.-C.P. Act as carrying any restraint upon the railways building new lines or acquiring new lines.

Mr. O'Donnell for C.N.R. says, yes, they do.

Mr. Evans for C.P.R. considers the Act is intended to prevent all kinds of wholesale competition, including acquisition and building of new lines.



20762

Mr. Evans goes on to say that in fact the C.P.R. will not have the money to construct or acquire new lines if what they fear comes about, and therefore the preferred position is that of the C.N.R. and considers that is not a part of the purpose of the language of the C.N.-C.P. Act.

Mr. O'Donnell points out that in addition to what there is in the C.N.-C.P. Act, even if the C.P.R. had money, there is the provision of Section 21 of the Canadian National Railways Act, which forces the C.N.R. to get the approval of the expenditure for the construction of any new lines from Parliament.

20769  
to  
20770

Mr. O'Donnell says C.N.R. would have to go to Parliament for approval in case of all capital expenditures. Refers to Section 12 of the C.N.-C.P. Act as amended by 1 Edward VIII, Section 25, and quotes section.

Mr. O'Donnell contends that C.N.R. could not spend any portion of the \$300 million under above section of C.N.-C.P. Act either for capital expenditure or retirement of securities or any other way without having the budget approved by Parliament.

20772

Mr. O'Donnell goes on to say that C.N.R. could not get any part of the \$300 million without approval of Parliament and surely Parliament must, in the final analysis, be the judge of what is good or bad for all the railways.

20773

C.N.R. submits that the \$300 million is to be for the retirement of interest-bearing debt obligations in the hands of the public, or for capital additions to the property.

Mr. O'Donnell replies to Chairman that in the meantime the government is to pay interest on the unexpended remnant of the \$300 million from time to time.

20773  
to  
20774

Chairman asks if C.N.R.'s expenditure of this interest is to be restricted in any way.

Mr. O'Donnell admits that there are moneys expended every day by C.N.R. from current revenues and assumes the \$9,000,000 interest would fall into the treasury to that extent.

20775

C.N.R. submits that the government of Canada when it incorporated this railroad placed on it an unwarranted and unjustified burden of capital debt, and the C.N.R. as the recipient of the obligation says it has objected through the years to that debt, it has never had an opportunity of ~~discussing~~ discussing a settlement of it in any satisfactory way, and it has never in fact been adjusted, and the adjustment has been postponed and the discussion of the judgment has been postponed.



20777

The Chairman suggests that C.N.R. is asking that the whole intention of the Canadian National System should be changed. Says apparently the Acts of Parliament are there to carry all these burdens - a whole lot of railways, some bankrupt and some unremunerative at the best. C.N.R. was given the task of operating and running them. They are not expected to make them earn surpluses. Now C.N.R. wants all that radically changed, and henceforth wants C.N.R. to be in the position where it is to run just about the same as a private company.

Chairman continues that if one looks at the Statutory intention of the C.N.R., he does not think anyone need hang his head in shame. It is intended that C.N.R. should carry these burdens and they have carried them.

20783  
to  
20784

Mr. Evans for C.P.R. points out that C.P.R.'s position in their original brief based on the original presentation of the C.N.R. was set out at page 109 of Part I of C.P.R. Brief and in order to bring it back to the attention of the Commission reads the concluding sentence of paragraph 54 which says:

"Nevertheless Canadian Pacific would be deeply concerned in any reduction in the fixed charges of Canadian National unless the principle is recognized that Canadian National should be permitted to earn a reasonable return on a reasonable level of railway property investment".

and the concluding sentence of paragraph 55 which says:

"A reduction in the amount of the fixed charges of Canadian National unaccompanied by some statutory assurance that its permissible earning power as a railway would not thereby be reduced, would offer a serious threat to the ability of Canadian Pacific to continue to function as a privately-owned railway system".

20809  
to  
20810

Referring to his previous statement in reply to Mr. Covert at page 20669, witness says he did not intend to convey that in any way he was suggesting a physical appraisal of the property, as a valuation of the properties so physically appraised. So far as the C.P.R. is concerned - and he imagines the same is the condition with the C.N.R. - those accounts are sufficiently indicative of the cost and the provision



for depreciation of the properties which they are presently operating, and he would say that anybody could be satisfied with an amount taken from those figures which would be acceptable to them, that is to go to the books of the company and determine it.

20813

WITNESS MR. COURTLAND ELLIOTT

20815  
to  
20816

Witness states that on behalf of the G.P.R. he would like to lay before the Commission some consideration of the sequence of principles and policies, which he thinks are inescapably involved in the recapitulation proposals of the C.N.R.

Regarding the mental attitude, witness considers the differences between the advocates of public versus private ownership of business enterprises seem to be widening.

Submits that it is of vital importance to know whether the proposals involve any increase in the burden of taxpayers or any shifting of the burden from the customers of the railways to the taxpayers.

Thinks that over and above the accounting and financial intricacies involved, there should be a clear perception of who is now bearing and who is going to bear the costs of railway transportation in this country.

It is the view of the witness that recapitalization does not alter in any way the economic costs of railway operation because those costs are not a function of the capitalization.

20817

Suggests that the financial re-arrangements may merely have the effect of shifting the residual burden as between the only two sections of the community who can currently sustain it. They are the customers of the railways on the one hand and the general body of taxpayers on the other.

20818

Witness thinks it is equally true in the case of a public enterprise that the business revenues should support their total costs and, until this result is achieved, resort to recapitalization as a means of not reflecting deficits or depriving taxpayers of a possible return on their investment in a public enterprise should certainly be delayed or avoided.

It seems to the witness that the criteria for acceptance, modification or rejection of the recapitalization plan, fall clearly on three points, viz., (1) Whether the case for recapitalization is justified by disproportionately burdensome financial changes that give little promise of being lightened by correction of the present imbalance between revenues and costs and by the possible growth in traffic itself, (2) whether it tends to shift directly or indirectly any additional



burdens to the taxpayers of Canada, and (1) Whether it retains fair competitive standards of operation and finances as between the two transcontinental railways.

20821

Witness takes the position that if, after the correction of the imbalance between rates and costs, the C.N.R. can justify a realistic recapitalization of a portion of \$760,000,000 by reference to commercial standards and without a further shifting of burdens to Canadian taxpayers the granting of this concession might then be contemplated. To consider it now, is in the opinion of the witness, entirely premature in the light of possible economic developments.

20822

Prima Facie it seems to the witness that, in return for recapitalization concessions, the Government of Canada would have every right to expect two types of reimbursement out of any surplus operating income of the C.N.R. that might arise after the imbalance between rates and costs is corrected. In the first place, in the interest of removing discrimination between the public and the private railways, witness is of the opinion that the C.N.R. should be obliged to pay an annual franchise tax, when earned, computed on an income tax basis. Moreover, instead of accepting any portion of the \$760,000,000 in equity stock the Government would seem to be entitled to an equivalent amount of income bonds, the interest on which would be payable only when earned.

20823

Witness considers that the new financial proposals of the C.N.R. must be carefully scrutinized to make certain that the burden is not being shifted to the taxpayer either directly by financial arrangements or indirectly by measures that would ultimately cause the C.P.R. to become a public charge.

Thinks that the gravest danger is that, after correcting the imbalance between rates and costs and after accepting losses through present recapitalization proposals, the progress of the country could leave the C.N.R. with such large apparent surplus earnings as to impair the competitive position of the C.P.R.

20832

In the opinion of the witness any recapitalization should come after there is some indication that this imbalance which follows every war has been corrected. Then there will be some knowledge of what the net operating income of the C.N.R. may be.

20833

Witness would tie the recapitalization of the C.N.R. entirely into the earning power of the railway.



20833

Witness is asked if the C.N.R.'s capital structure consisted entirely of income bonds, would that solve the problem from his point of view.

Witness replies that the situation there is that the taxpayer is making a concession from a fixed inflexible rate of interest into a contingent interest position.

20835

Witness thinks that in its present form, if there is to be no fixed interest charge payable to the Government, either by way of income bonds or by the present form of indebtedness, then there is a danger that under good operating conditions the C.N.R. would realize such a large surplus as to present a possibility of a change in the rate structure.



SUBMISSION OF C.N.R.

VOLUME 115

20883

Witness: Mr. W.H. Cooper for C.N.R.

20892

Mr. O'Donnell for C.N.R. files as Exhibit 277 a statement of adjusted comparative results for the year 1949, C.N.R. and C.P.R.

20894

Witness says if the fixed charges of the C.P.R. and those of the C.N.R. are approximately equal, because of the physical characteristics, density of traffic and operation of lines in the national interest, the results of operating the C.P.R. will always be found to be more favourable than those of the C.N.R.

20896

Witness is asked if effect were to be given to Mr. Donald Gordon's proposal and the Directors considered the disposal of the surplus and decided to pay it over in whole or in part to the Government, would that payment take the form of a payment of so much a share.

Witness replies that that is a matter to be settled by the C.N.R. Board of Directors.

20917

Witness is of opinion that by and large the C.N.R. would always be in the order of about \$20 million less in net income than the C.P.R. after the President's proposals had been put into effect, whereas there was an implication left the witness thought in the evidence given by Mr. Mortimer Jones and Mr. Norman that the reverse would be the situation. Witness says he wants to make it clear that that would not be the situation; the C.N.R. will never in his opinion earn as much as the C.P.R.

20923

Witness admits that in addition to the proposals submitted by Mr. Gordon there is statement to the effect that the C.N.R. would be willing to pay income tax.

20942

Mr. O'Donnell for C.N.R. files as Exhibit 278 Report of Special Committee on Interstate Commerce Commission Bureau of Accounts and Cost Finding. Subject - No. 424.

20943

Mr. O'Donnell quotes from page 33 of the above report where conclusions of committee are set out.

20947

Mr. Covert states that the next subject is that of C.N. - C.P. Act, 1953, and amendments



Submission of the C.P.R.

20959

Witness: Mr. John E. Armstrong

C.P.R. submits that for many years prior to the enactment of the C.N.-C.P. Act the C.P.R. had joint arrangements of various kinds with other railways. These arrangements may be classified under two headings:

- (1) Joint facility agreements whereby one company is granted the right to joint use of the facilities of another company.
- (2) Joint ownership of facilities whereby two or more companies construct or acquire facilities for joint use.

At the present time the C.P.R. is party to some 20 joint facility agreements involving facilities which it is estimated have a probable capital value of approximately \$113,000,000 and participate in joint ownership of two jointly used facilities, involving a further probable capital value of approximately \$27,000,000.

20962

Witness says he has prepared a list headed "Canadian Pacific joint arrangements of various kinds with other railways, not including arrangements made under the provisions of the C.N.-C.P. Act 1933". This list is filed as Exhibit 204.

20967

to

20968

Mr. Spence for C.P.R. points out that Exhibit 204 indicates that there were co-operative measures of a kind dating back many years before C.N.-C.P. Act.

C.P.R. submits that with the onset of the depression in 1930, traffic on both major railways declined sharply to a point where it became impossible to operate either of them on a profitable basis. In 1933 following the report of the Duff Commission, Parliament enacted the C.N.-C.P. Act which directed the two railways to endeavour to agree upon co-operative measures for the purpose of effecting economies.

20969

Witness says that co-operation as contemplated by the C.N.-C.P. Act, 1933 may be said to have been initiated by a motion recorded on page 65 of the minutes of the proceedings of the Senate of Canada of Friday, November 23rd, 1932, which reads:

"That, in the opinion of the Senate, for the purpose of expediting the attainment of all possible economies by actual co-operation pending the determination of the present railway bill 'A' a certain number of officials of the Canadian Pacific Railway Company and an equal number of officials of the Canadian National railways should meet to co-operate in eliminating some of the duplication of railway service with a view to economy in this service."



Witness understands that the bill 'A' referred to was what eventually came out as the C.N.-G.P. Act, 1933.

On Nov. 29th, 1932, the Chairman and President of C.N.R. wrote to the acting President of the G.P.R. with a view to initiating such action as would implement the intent of the motion.

On Dec. 15th, 1932, the Chairman and President of the C.N.R. appointed Messrs. Grant Hall, W.A. Willey, J.D., and himself a sub-committee of the C.N.R. Executive Committee, and on the 16th Dec. 1932, the acting President of the G.P.R. appointed Messrs. J.D. Lefebvre, F.K. Morrow and himself a sub-committee of the G.P.R. Executive Committee to deal at the highest level with co-operative matters between the two railways.

These two sub-committees with such changes in personnel as were made from time to time, became known as the joint executive committees.

The joint executive committee was formed in December 1932 and five months before the passage of the Act.

20970

Witness says it was decided that each railway would appoint three technical officers to deal with co-operative matters and report thereon to the joint executive committee.

These two groups, with such changes in personnel as were made from time to time, became known as the joint co-operative committees.

On Dec. 22nd, 1932, the first instructions to the joint co-operative committee were issued jointly by the acting President of the C.N.R. and the Chairman and President of the G.P.R. and on Dec. 26th, 1932, the joint co-operative committee held its first meeting.

The C.N.-G.P. Act 1933, became law on May 23rd, 1933.

20971

Commissioner Innis points out the C.N.-G.P. Act after providing in section 16, sub-section 1, that the railways shall endeavor to agree upon co-operative measures, provides for a method of arbitration in case of disagreement. The arbitration sections are section 17 and several sections thereafter. Asks witness his view as to the principle established in the setting up of this arbitral tribunal.

In opinion of the witness mandatory co-operation under the C.N.-G.P. Act, 1933, was a new concept of co-operation. It provides for equitable (which the railways have interpreted as to mean as nearly as may be equal) distribution between them of the burden and



and advantages in the co-operative projects, and this seems a reasonable requirement. It also provides for an arbitral tribunal which may be invoked by either railway to arbitrate between them in connection with any co-operative project in regard to which they are unable to reach an agreement. Such arbitration would seem to go beyond simple co-operation, in that either railway is put into a position in which it is forced upon the other a so-called co-operative project which is not acceptable to that other railway. The invocation of the arbitral tribunal would seem to be the antithesis of co-operation, and might be expected to have an unfortunate effect upon the joint co-operative effort. Perhaps for this reason the management of neither railway has invoked such a tribunal.

20972

Witness thinks competition and co-operation are not particularly happy bedfellows. There are projects in which competitors can co-operate to their mutual advantage, but such projects are not as numerous as might be expected. Each co-operative project involves a unification of competitive facilities or operations involved in that project. Invocation of the arbitral tribunal already provided for in the Act would add an element of force to such co-operation or unification.

20973

Mr. Spence for N.S. says release of Nova Scotia has submitted that the Act might be amended in some way so as to force the railways to co-operate. Believes Alberta endorses Nova Scotia's submission.

20974

Mr. Frawley points out that The Canadian Federation of Agriculture at page 7536 of the Transcript, made two specific recommendations as follows:-  
1. "Through amendment to the Canadian National-Canadian Pacific Act, the immediate appointment of a continuing tribunal which would be given authority to undertake research and investigate all possible ways to reduce duplication of services and wasteful competitive practices; such tribunal to propose from time to time to the railway companies such measures the findings of their research show would be fruitful in effecting economies; and that the tribunal report each year to Parliament recommendations which they have made and the extent to which these have been adopted and carried out by the railways;  
2. That the Railway Act be amended to provide that the Board of Transport Commissioners when considering general freight rate revisions must take into consideration the extent to which the railways have endeavoured to bring about economies by co-operation or in accordance with the recommendations made by the tribunal proposed in recommendation 1."



20975

Mr. Crowley says this was followed by a statement that there should be two amendments, one to the C.N.-C.P. Act and one to the Railway Act, to make these recommendations applicable.

Commissioner Innis asks Mr. Spence if he would favour an amendment removing the reference to the arbitral tribunal, since it has never been used.

Mr. Spence says he does not think so, C.N.C.'s position is that the Act should remain as it is.

20976

The Chairman notes that parts 2 and 3 are the portions of the C.N.-C.P. Act which deal with co-operation.

Mr. Spence says it is only parts 2 and 3 of the Act that this evidence is directed to. Considers that although Order-in-Council does not limit it to these parts that was the intention of the Order-in-Council.

20977

Mr. Smith for Nova Scotia states he has no suggestion to make as to amendment of the Statute, but would be prepared to support the recommendations of the Canadian Federation of Agriculture.

20978

Replying to Dr. Angus, Mr. Spence says that later on there will be read the part of the C.N.C. brief that deals with the possibility, for instance, of an application for an increase in rates being requested and that being delayed while the B.C.C. made an investigation of all co-operative measures to be sure that all possible economies had been achieved, and if such economies had been prevented by the failure of one company to co-operate, the other company would suffer as a result of failing to get its rate increase. (See page 20983)

20979

Mr. Spence agrees that if one railway offered to co-operate and the other railway refused that question could go to a tribunal and the tribunal could order co-operation. But qualifies this by saying there must be a dispute between the two railways under section 17 and one railway must then invoke the tribunal. The tribunal does not exist until it is invoked in respect of the particular dispute.

20980

to

20981

Chairman points out that under C.N.-C.P. Act "Dispute" means any failure of the C.N.C. and C.P.C. -- that is both together -- to agree concerning any matter up to which by Part II of this Act they are authorized to agree.



Mr. O'Donnell for C.N.R. says it goes on then "and includes their failure to agree concerning any measure, plan or arrangement proposed or any matter of detail arising out of or ancillary to...."

20982

Chairman inquires if Act could be invoked against the railways by a third party.

Mr. Spence suggests the answer to that is subsection 2 of Section 18 which says:-

"The powers of the Tribunal may be invoked by either company by written application to the Chief Commissioner...."

20983

to

20984

Mr. Spence thinks that it is at least a partial answer (as suggested by Mr. Angus see page 20978) to the complaint of one company that it is being delayed because of the failure of the other company. On the other hand invoking the arbitral tribunal would itself mean a considerable delay and probably very extensive proceedings, and he thinks also that there are cases in which there are quite legitimate objections by one company to going into a proposal; that is, that it would receive injury or damage from the proposal exceeding any recompense that it might hope to get in savings.

Mr. Spence continues that if they come up to a rate case and the opponents of the rate increase find that here is a case in which the railways have failed to go ahead with the proposal that has been made, they may still delay the thing, even though there was every reason for not invoking the arbitral tribunal.

20985

Mr. O'Donnell for C.N.R. says there is definitely no agreement between the railways not to use the arbitral tribunal.

20986

to

20987

Commissioner Innis suggests that if arbitral tribunal is used it might invite some proposal from the other side which will be equally objectionable.

Mr. O'Donnell says that might be, but no occasion has arisen, apparently, when it was invoked, but that is not by reason of any agreement -- those are his definite instructions -- and with respect to the matter of delaying a rate increase, he thinks the answer there is that at the present time under the Act, the B.T.C. has no jurisdiction over that part of the matter at all. It is so said in the 201 judgment at page 40, quotes:



"The Canadian National-Canadian Pacific Act does not confer upon the Board any duty or authority to require the railway to study and undertake co-operative measures with a view to effecting economies, or to review and investigate what measures they have taken, or might have taken under such Act.

As indicated during the hearing this is not a matter which would seem to invite special enquiry on our part. Nothing can, therefore, be gained by entering upon any extended discussion of the subject at this time."

Mr. O'Donnell therefore considers that a rate increase could not be delayed by reason of that as the law stands at the present time, because a report concerning the C.N.-C.P. Act is made each year to Parliament, and the S.T.C. has no jurisdiction in the matter.

20986

Mr. Macrae points out that when the railways came before the S.T.C. asserting need claiming they should have an increase in freight rates, then it was urged by provincial counsel that as a condition pre-requisite they should establish what had been accomplished under this Act, unless it was to be regarded as a dead letter. That is to say, when they asserted a need and on the basis of that need asked for a freight rate increase, although the S.T.C. had no jurisdiction over them, at the same time it was incumbent upon the railways to establish what they had done in that connection.

20988

to

20989

Chairman considers that the essence of the statute is that it directs these two companies to attempt forthwith to agree and continuously to endeavour to agree, upon such co-operative measures, plans, and arrangements as are fair and reasonable and best adapted to effect such purpose.

20989

The Chairman asks if there have been any proposals made by one company and rejected by the other, for co-operation. Mr. Spence agrees there have.

Then Chairman asks if agreements have been entered into in respect of which later on disputes have arisen. Mr. Spence thinks not, does not know of any. Says once agreements were entered into both parties have carried them out.

Mr. Spence agrees that only class of disputes which have arisen that he knows of have been where one railway was willing and the other was not. But suggests that railways have never come to the point where one says "he insist" and the other says "he refuse."



Commissioner Adams asks if these failures are reported to Parliament.

Chairman says I.S.S. does not report to Parliament, but that does not mean to say that they have to report proposals that are rejected.

Mr. McDonnell agrees to does not think it goes into that far.

Mr. Poley says apparently it is only the I.S.S. that makes the report, because the trustees are the trustees of the I.S.S.



20991

Mr. Spence for C.F.A. explains he would like to make it clear that so far as he knows there has never been any case in which one company has proposed a joint co-operative project and the other company has refused to give it full study and consideration.

The Chairman asks if there are cases where one company has proposed a measure of collaboration and the other company, after full study and consideration, has rejected it. Mr. Spence agrees there are those cases.

20994

Mr. Spence points out that briefs of both C.F.A. and C.F.B. contain a complete list of all proposals considered by the joint co-operative committee since the inception of the C.F.A.-C.F.B. act, which were accepted, rejected or not proceeded with.

20994

to

20995

Witness states Dr. Angus had questioned C.F.A.'s submission that if B.F.C. were given power to refuse to grant rate increases until they had proved that all possible co-operative economies had been made, the result would be that the innocent might suffer with the guilty, since a company that had done everything possible to make progress in co-operative economies might be prevented from getting a rate increase by another company which had possibly obstructed or delayed the proposed co-operative measures.

Dr. Angus suggested that the innocent company might have very little complaint upon this score if it had failed to invoke the arbitral tribunal when occasions arose when it might be invoked.

Mr. Spence says there are two answers to this question:

(1) It is certainly the feeling of the C.F.A. and he gathers also of the C.F.B., that the moment the arbitral tribunal is invoked co-operation under the act comes to an end. Says this is not just a fear of reprisals as Dr. Angus suggested but there would inevitably be a suspicious atmosphere created immediately on the commencement of proceedings under the arbitral tribunal, and that could not fail to have its effect upon all other co-operative matters under consideration.

20996

Mr. O'Donnell for C.F.A. would not assume that because there was a dispute submitted to an arbitral tribunal with respect to any particular project, that that would affect other projects and that they would not be dealt with on their merits in their own turn.



20777

The Chairman points out that the intention of the Act is that there should be co-operation which would be helpful to the public and to shippers, without unduly hurting the other company.

21001

Mr. O'Donnell for C.N.R. would not want it thought that because companies might see fit to ask for an arbitral tribunal with respect to any particular project, that they would not be willing to sit down and discuss other possible projects with an open mind and with a view to arriving at what was fair in the circumstances.

21002

Mr. O'Donnell replies to the Chairman that the tribunal has never been invoked. But he says the Act is still there and can be used, and the fact that it was invoked, by either company, would not necessarily mean that there would be no further co-operation.

21003

Commissioner Angus thinks shipper might be made to suffer because of reluctance on part of railways to make use of machinery provided by Parliament. Says after all, in a sense, if the economies are not made, and the requirements of the railways are submitted without those economies, under present conditions - if not under those of the nineteen thirties - it is the shipper who pays.

Mr. Spence replies that C.P.R.'s feeling is that they can benefit the shippers more by refraining from using this arbitral tribunal, because they can carry on in a more co-operative spirit and get farther without the tribunal than they could with it.

21004

Mr. O'Donnell says that when point reached where any project were to be considered of sufficient importance for the C.N.R. to endeavour to have it prevail, then they would undoubtedly invoke the tribunal and would assume that in so doing that would not mean that the other projects which could be considered in a fair way would not be dealt with accordingly.

21005

Mr. Spence says that position of C.P.R. is that the Act should remain as it is. They feel that if the Act served no other purpose than to stand as a warning or admonition to the two companies that they are not to indulge in wasteful and destructive competition, then, even if it did nothing else but that, it would be fully justified.

21006

to

21007

The Chairman thinks the thing to be borne in mind by both companies is that the point of departure in this Act is a direction to both companies to attempt to co-operate. Says by the statute both companies are directed to attempt forthwith to agree, and continuously to endeavour to agree etc.



Mr. O'Donnell quotes section 22 of the Act which sets out the force and effect of a decision of a tribunal under the Act. Says there is sanction there and C.N.R. will use it if they ever have to. They want their position clearly understood.

21008

Commissioner Angus concludes from Mr. O'Donnell's remarks that it is the view of the C.N.R. that Part III is a very live section of the Act, which might be invoked tomorrow and might serve a very useful purpose; but he gathers that it is the view of the C.P.R. that it could only be invoked at very great cost -- that of imperilling the spirit of free co-operation between the two enterprises.

21010

Mr. Spence says that it can readily be imagined that if at any time the situation arose in which the railways needed a rate increase, and there were four or five or six cases pending before the tribunal, the most unreasonable delay would be imposed upon the railways before they could get their rate application heard.

Commissioner Angus assumes that the mere fact of having referred a case to a tribunal would mean that a railway was actively pursuing economies. Says it would not follow that it was necessary to wait for the finding of the tribunal.

21011

Mr. Spence states that the C.P.R. have not studied any possibilities of changes in Part III, for the reason that they were satisfied with it the way it stood.

Mr. O'Donnell says C.N.R. agrees. As far as they are concerned, they think Part III is there and it is in the proper form, it provides a remedy which would be most useful in any given circumstances when it should be invoked, and it has not been invoked and that it has not been in effect heretofore for reasons which are in their view sufficient does not warrant changing it.

Mr. O'Donnell thinks that so long as Parliament is the body to which reports concerning co-operation have to be made, there is no reason for confusing the two matters, co-operation under the C.N.-C.P. Act and rate increases under the Railway Act.

Says rate increases under the Railway Act are dealt with by R.T.C. and under the law as it stands their decisions cannot be impeded or delayed through questions relating to co-operation under the C.N.-C.P. Act, because Parliament has reserved to itself the right to review those measures, and they have nothing to do with the rate increases under the Railway Act.



21015

Mr. Frawley for the Province of Alberta says he personally adopts the suggestion of the Canadian Federation of Agriculture, that there should be some continuing supervision of the statute. The Federation had suggested the appointment of a special continuing tribunal to be set up and given authority so that there could be some third party, some public interest supervising upon the operations of the two railways in this matter. This continuing tribunal, the Federation says:

"would be given authority to undertake research and investigate all possible ways to reduce duplication of services and wasteful competitive practices; such tribunal to propose from time to time to the railway companies such measures the findings of their research show would be fruitful in effecting economies; and that the tribunal report each year to Parliament recommendations which they have made and the extent to which these have been adopted and carried out by the railways."

21018

to

21019

Commissioner Angus queries whether when this Act was passed, in 1933, the immediate problem was to reduce what was called the Canadian National Railway's deficit and perhaps to help the earnings of the C.N.R. during the depression, and that the shippers as a class would rather lose by co-operative measures than gain by them -- that is to say, they would be getting rather less service for the same money -- and if a new situation has arisen after the war, in which the shippers' interest is reversed so that their interest is in seeing that measures of co-operation go as far as possible in order to make the demand for higher freight rates as slight as possible, some modification of the Act might be reasonable to take account of that change in position of the shipper.

21020

Mr. O'Donnell replies to Mr. Angus that it was not merely to lower the deficit for the time being but it was to stop what had been rather reckless competition on the part of the railways.

21020

to

21021

Mr. O'Donnell refers to the judgment in the 21st Case where it was stated:

"The Canadian National-Canadian Pacific Act does not confer upon the Board any duty or authority to require the railway to study and undertake co-operative measures with a view to effecting economies, or to review and investigate what measures they have taken, or might have taken under such Act."



21021

Mr. Stannell refers to the earlier judgment dated Sept. 20th, 1949, which said summarily says in part as follows:

"Dealing first with reference to the Board by order in council p.c. 4676, in my opinion no new evidence was furnished to the Board or new matters drawn to its attention which would justify disturbing the findings of the Board with respect to the following matters ..."

Mr. Shepard for the Province of Manitoba draws attention to one of the amendments to railway Act suggested by Manitoba. It is subsection 3(e) to Section 325A. It reads as follows:

"The Board in determining any application under this section shall have due regard to ---

"---(e) whether or not the railway is operated efficiently and with due regard to any savings which have been or should have been, affected included savings under the C.N. - C.P. Act."

Mr. Shepard says that the section as they have drafted it has to do with the determining of any general freight rate application.

Mr. Shepard continues that although the Chairman had indicated that he considered that the provinces should be prepared to bring out certain points as to where economies could be effected in their own provinces, there are none that they can point to definitely in Manitoba, but Manitoba considers that possible economies in the operation of such a complex thing as a railway are matters which are essentially and peculiarly within the knowledge of the railways themselves.

21023

Mr. Shepard says Manitoba would suggest that the Board would not order the railways to effect any economy but they would have available to them the results of the studies which would show that economies could be effected.

21024

Mr. Smith for says points out that corresponding legislation is now contained in section 15A of the Interstate Commerce Act but is not nearly as wide or as comprehensive as the provisions of the C.N. - C.P. Act.

21027

Mr. Smith goes on to say that the I.C.C. has decided that there should be continuous investigation into all measures which could be adopted to eliminate waste and promote efficiency, and as a matter of fact over the period since 1935 when they had a co-ordinator, he has made numerous reports on these matters.

Mr. Smith suggests that there should be somebody empowered to make these investigations under C.N. - C.P. Act. Does not think the Railway Committee can



do so. They have only to receive a report from one railway. There is no obligation upon the C.N.R. to make any report. There is an obligation upon the C.P.R. to make a report. He suggests that there should be some authority imposed by statute, as suggested by Mr. Shepard, so that this question of whether or not there has been any compliance with the Act may be inquired into, and that it should be a continuous study.

21029

1a

21030

Mr. Macpherson for Saskatchewan thinks C.N.R. submission would indicate that savings under C.N. - C.P. Act amount to about \$1 million annually or a little more.

21031

Mr. Macpherson as far as Saskatchewan is concerned knows of no particular instance where railways have failed to do something that might have been accomplished under the Act.

21036

Witness: Mr. John A. Armstrong

The witness by term unification had in mind the term "unification" as used by Sir Henry Beatty some years ago. That is all physical facilities of both railways were to be operated as one railway, with dual management.

21038

Mr. Spence for C.P.R. says he understands that at the present time the C.P.R. are not advocating unification or anything of that nature at all.

Witness says C.P.R. is in favour of co-operation between the two major railway systems insofar as co-operation can be brought about without serious detriment to the competitive position of either railway. It is opposed to any type of so-called forced co-operation because it believes that co-operation cannot be forced.

21039

Witness says progress has been made under the Act by co-operation and without invoking the arbitral tribunal. 17 studies have resulted in co-operative action resulting in annual joint cost economy of \$1,169,240.

Witness points out that when both railways are operating at or near full capacity, as they have been during and since the war, there is relatively little saving to be made by co-operation.

21040

In the opinion of the witness, some further opportunities for co-operation between these major railways may be discovered in the future, but he doubts that under present traffic conditions such co-opera-







21068  
to  
21070

C.R.N. submits that in addition to measures taken in accordance with the established joint procedures or pursuant to the 1933 Act, the two railways have been active in other forms of co-operation.

Witness points out that prior to 1933 the communications departments of the two railways had arranged for joint use of offices, staffs and lines in the event of fire and/or interruptions to lines thus avoiding duplication of routes etc. The use of U.S. routes for detouring had also been arranged. Joint advertising matter as practicable had also been arranged, thus making savings in printing and distribution costs.

In 1933 these departments arranged for pooling of transmission facilities to serve the Canadian Broadcasting Corp.

In 1937 they arranged for joint remote control circuits facilities to customers other than the Canadian Broadcasting Corp.

In 1938 they arranged for joint installation and use of underground cable facilities in urban centres.

In 1939 they arranged for pooling of telephoto transmission facilities.

In 1943 they arranged for joint facilities for telephone and teletype circuits for air traffic control.

In 1944, they arranged for pooling of messenger delivery service, nights, Sundays and holidays, at the large centres.

In 1945 they arranged for joint investigation and application of joint to point radio communications.

In 1947 they arranged for pooling of canned music transmission to industrial plants, cafes, etc. in cities and also for pooling of teletype and some private wire circuit facilities.

From time to time, as opportunity offered, they have arranged for joint maintenance of the other railways teletype installation at outlying points, joint installation of a single teletype machine where traffic volume did not warrant duplication, joint use of pole and pin space on open wire pole lines, and for joint gathering of election returns.



21068  
to  
21070  
(cont.)

Prior to 1933 joint telegraph office operation had been placed in effect in ten places.

Since 1933 the communications departments have arranged for joint telegraph office operations at eight additional places. The basis of distribution of revenue and expenses at these offices is generally that the revenue from non-competitive business is retained by the company controlling that business and revenue from competitive business is divided in accordance with the division of such business during an agreed upon prior test period. Expenses are divided according to distribution of revenue.

In 1946, 1947 and 1948 the communications departments of the two railways arranged for the withdrawal of duplicate telegraph offices on a reciprocal basis, without payment by either company to the other. The C.P.R. has withdrawn eight and the U.N.R. twelve such offices.

21071

The U.N.R. admits that also numerous co-operative measures involving the handling of express traffic of the two railways have been effected.

21072  
to  
21073

The witness states that in comparison with the years of the depression there is very little scope for activity on part of the Joint Co-operative Committee at the present time. This is due primarily to the fact that, as explained earlier, traffic volume is such that there is nothing like the same opportunities for savings by co-operative measures.

However, following a meeting of the Joint Co-operative Committee over a year ago the U.N.R. action of that Committee instituted a survey of the C.P. System by requesting its Regional Operating Vice-presidents, the Vice President of Traffic, the Department of Research, the Hotel Department, the Department of Communications, and the Express Company to undertake in their respective fields: -

1. A review of all co-operative arrangements in effect to determine whether further savings were possible.
2. A review of all matters already studied to see whether any of them warranted further consideration.
3. An inquiry to determine whether there were further possibilities of co-operation which would warrant study.

Witness says so far this survey had disclosed no further possibilities of co-operation which would warrant study.



21300

The witness would like to know whether if there is a co-ordinating body appointed if the decisions of that body would be final and not subject to hearings and objection of interested parties, as so far has been the case.

21071

Witness admits that the first real revival of interest on part of U. S. since the war was the survey started about a year ago.

21105

In connection with grain interchange witness states the report of the Joint Co-operative Committee to the Joint Executive Committee set as the proposal that grain traffic to Vancouver originating at Canadian National stations that are closer to Calgary be turned over to the U.S.R. at Calgary and be loaded to Vancouver for delivery there, and the same for the Canadian U.S. movement of U.S. grain.

Witness goes on to say that in studying the detail situation it was found that it was a very handy interchange at Kamloops, a very busy place for the U.S.R. cars of grain to be turned over from U.S. to C.P. and vice versa.

Says the Agreement as finally developed was on the basis of interchange at Kamloops.



21123

Mr. Gesce, on behalf of C.P.R., says briefly that the proposal for unification that was advanced by the C.P.R. in 1938 was that the railway properties of the two companies would be operated as a single system under one management, the management to consist of something in the nature of a Board of Directors appointed by the two Companies. The two Companies would retain their identity but they would turn over their railway properties to this joint management to operate. Essentially the purpose was really complete co-operation by the elimination of the factor of competition. The Canadian Pacific of course is not advocating that procedure at the present moment. The Canadian Pacific is opposed to that proposal now.

21125

Witness Mr. John E. Armstrong.

21126

Witness refers to proposal contained in the brief of the Canadian Federation of Agriculture and says that while the proposal of the Canadian Federation of Agriculture does not state in so many words that the railways are to be forced to adopt the measures that the tribunal suggests, it seems to him that the purpose of the proposal must be to enforce co-operative measures upon the railways. Force and co-operation seem to him to be impossible bedfellows. Witness is therefore opposed to the proposal of the Canadian Federation of Agriculture.

21127

and

21128

Witness says new tribunal would exert pressure upon the railways in a different manner to that provided by the present Act. The pressure would come from the tribunal's reports to Parliament of the suggested measures that the railways had failed to put into effect. There might be, and no doubt would be, perfectly valid and legitimate reasons on the part of one or the other railway, or both, for not voluntarily implementing measures suggested by the tribunal, but nevertheless, they might be compelled to adopt measures one or other of them considered to be damaging to its competitive position.

Witness thinks both railways in their own interests are anxious to adopt every legitimate means to effect economies, and that when one railway cannot see its way clear to enter into a co-operative project the reason is either that it is satisfied there is no economy in that project or that the resultant detriment to its position outweighs such economy as there may be. To force the railway into such a so-called co-operative measure is in reality depriving it to that extent of its right to carry on its own affairs in what it believes to be its own best interest and that of the people it serves.

Witness says it seems unlikely that an outside body or tribunal, such as suggested by the Canadian Federation



of Agriculture, could acquire such expert knowledge of a situation as to enable it to arrive at a useful conclusion as to whether or not a particular project should be implemented.

21128

Witness is satisfied that the facts relevant to such a proposal must be developed by a Joint Committee of local officers of the railways in the territory affected by the proposal; and that the final decision as to whether or not a proposal should be implemented must rest with the Joint Executive Committee which is composed of Directors of the two railways, including their respective Presidents.

It is the considered opinion of the witness that a decision arrived at by the operation of that machinery is much more apt to be a sound decision than one reached by a tribunal of the kind proposed by the Canadian Federation of Agriculture, which would have neither the information available to the officers of the railways for reaching a decision, nor the responsibility of those officers for the results of that decision.

21132

Witness says it seems unlikely that an outside body or tribunal, such as suggested by the Canadian Federation of Agriculture, could acquire such expert knowledge of a situation as to enable it to arrive at a useful conclusion as to whether or not a particular project should be implemented. There is a vast difference between suggesting and implementing.

Witness thinks tribunal could reach a perfectly sound conclusion as to what they were going to suggest. Does not think they could go beyond that.

21133

Witness thinks there is very little policing of the two railways under the Statute.

21138

Witness says that industry endeavours to locate its plant on to both railways in order to have the advantage of the competition between them.

In reply to a question by Commissioner Angus as to what form that competition takes, witness says in the matter of service.

21142

Attention of the witness is called to the fact that out of a total saving of approximately \$1,300,000 almost \$1,000,000 of that was saved with regard to passenger service. Witness agrees that the only substantial saving that has been made under the act has been with regard to passenger service.



21143

Witness says that many other locations for pooling of passenger service on various bases were studied and the cost of putting them into effect was so great that it made the then rather doubtful economies not worthwhile.

21144

Refers to page 137 of C.P.R. brief setting out projects on which study was interrupted owing to war activity, in particular nation-wide pooling competitive passenger train service. Witness says that was a study of all competitive passenger train service throughout Canada and it was reported on once. This was referred back by the Joint Executive Committee for further study and was in the second study stage when the war interrupted the activity.

21145

It is suggested to witness that the situation is changing somewhat to-day, particularly in passenger service, and that revenues are again falling. Witness is asked whether, bearing that in mind, the management have again decided to study this problem. Witness says it is unnecessary for them to again decide to study. The Joint Co-operative Committee has instructions from the Joint Executive Committee to study.

Witness says no substantial economies have been discovered by the pooling of passenger service.

21147

Mr. Spence says there is nothing in the Railway Act that requires the railways to obtain the Board's permission merely to take off a train. It has always been the practice of the railway companies to apply to the Board when they were proposing to take off a passenger service altogether, although even there the Act does not compel them to, but they do it as a matter of courtesy to the Board and as a matter of protecting their position.

Mr. Spence says the protest that might develop in any community against dropping a train service would not be comparable to that of abandonment of lines but that they quite often have protests in considerable numbers.

21148

Although the application to the Board is merely a courtesy, it is a matter of fact really determined by the Board.

Mr. Spence says when it is merely the discontinuance of one train they do not have to supply such voluminous figures, but the Board has to be satisfied that a genuine saving is to be made that out-balances the inconvenience to the public. Mr. O'Donnell says this is governed by the provisions of Section 312.

21149

Refers to Section 312 of the Railway Act, which reads as follows:- (in part)

"If in any case such accommodation is not, in the opinion of the Board, furnished by the company, the Board may order the company to furnish the same within such time ....."



21149       Witness does not think it has even been suggested that a pool be established between the C.P.R. and C.N.R. on the line between Calgary and Edmonton.

21152       Witness says labour is consulted on proposals for pooling only after agreement has been reached as to what is to be done and then the matter is taken up with labour to find out how to adjust the labour problem in the new situation that will arise.

21153       Chairman refers to Section 13 which directs co-operation and directs also that any plan or arrangement made by the railways shall contain or provide for a fair and reasonable apportionment as between the employees of the two railways, and that the railways are to negotiate with the representatives of labour to bring about that effect.

21158       Witness says first thing railway considers in any proposed project is the probability of economy in the project that is economy to both railways since they divide the burden and advantage equally between them.

21159A       Witness points out that the statute requires that the burden and advantage be equitably divided and the railways have interpreted that to mean equally divided.

21159B       Commissioner Angus asks if there is not apt to be a little confusion in debating the matter that any economies made in the long run intervals that sometimes elapse between freight rate revisions affect the railways, but when it is merged in the proceedings of a general freight rate revision then it is a question of the shippers gaining or losing.

21159C       Witness is asked which he considers more important, to  
21160       maintaining competitive position as against the other railway or the easing of this transportation burden. He replies that there would be no competition until 100% co-operation. Every co-operative move is a move towards unification, because those facilities or those operations that are drawn together in co-operation have become to that extent unified.

Witness is personally in favour of co-operation to the extent that it can be brought about without serious detriment to the competitive position of either railroad.

21164       Mr. Brazier for the Province of B.C., suggests that the establishment of a joint terminal in the City of Vancouver is an economy measure.

Chairman asks if it has ever been considered and witness replies he is of the impression it has.

Witness thinks joint terminal in Vancouver came into the picture under heading "nationwide pool competitive train services".



21164

Witness explains that in order to bring about pooling, it is highly desirable in all cases, and essential in some, that the pool trains operate from one station. In that respect he believes under that joint investigation in connection with the first report, as that nation-wide pool, the one that is now back for study, the matter of the joint terminal in Vancouver was considered.

21165

Witness thinks term of agreement on those pool trains is indefinite. It is not in perpetuity. Line abandonment agreements must be in perpetuity. When you take a line out of a territory you are through.

21170

Asked if C.P.R. would be willing to study a plan for joint operation of the port at Vancouver if economies could be realized, witness replies that he thinks question is whether C.P.R. would consider a joint passenger terminal.

Asked if C.P.R. would be willing to study a project leading to unification of all terminal facilities witness answers that C.P.R. has never declined to study any proposition that was put to them jointly.

21177

Witness considers that competition is good except where it becomes wasteful.

21178

Witness thinks that in all these matters the arbitral tribunal was to have final jurisdiction and final judgment. Says the Act as it now stands provides that type of machinery.

21181

On the question of labour Mr. Covert refers to Sub-section 1 of Section 16 of the Act.

21182

Witness understands that the purpose of that Sub-section was that a given co-operative measure should not result in all the employees of one railway being discharged, and all the employees of the other railway kept on. There has to be an equitable distribution of burden and advantage and that carries the burden portion down to the labour level.

Witness agrees that you cannot effect economies without affecting labour. This was also the case in U.S. where a somewhat similar Act passed in 1933.

21185

Witness explains that the Joint Local Committees consist of local officers who are thoroughly conversant with the minutiae of the matter, but whose outlook on a system basis is probably very restricted; that is they tend to be either division officers or district officers, not system officers. When they transmit their report to the Joint Co-operative Committee, there for the first time ordinarily it is examined from the system point of view. Then when it goes to the Joint Executive Committee it is dealt with in the matter of policy.



21186

Witness does not think that the decision to invoke an arbitral tribunal would rest with the Joint Executive Committee as a whole but rather with the management of one railway or the other.

21187

The Joint Co-operative Committee after considering the word "equitable" adopted the principle of endeavouring to get a straight fifty-fifty division.

21188

Witness is queried as to his doubts that in many of these cases where there have been co-operative efforts, under traffic conditions as they now exist, there are really any substantial savings. Witness replies that there are economies of the order that were estimated at the depth of the depression.

21189

Witness feels that the field of co-operation is substantial enough to be very carefully explored, and it is one of the managerial fields available to railways in meeting their present day troubles.

21192

Witness points out that in the post-war adjustment period managerial problems were of such magnitude that by common consent co-operation was not a matter for immediate study. As far as C.P.R. is concerned that phase is now drawing to a close, and attention is being paid to the field of co-operative economies as part of the managerial problem.

21193

to

21194

Concerning the Calgary-Edmonton-Vancouver pooling which presently applies only to grain traffic, witness thinks that principle might very well be extended. Thinks it is one of the joint co-operative ventures that has in it elements of substantial saving.

21198

Witness says so far as Joint Co-operative Committee is concerned it does not necessarily have to agree on a project before it comes to top level. They either agree and make a recommendation or report dissent. Does not know just what Joint Executive Committee does in these circumstances. Sometimes they have referred matters back, sometimes they have accepted recommendations.

21200

Witness - Mr. S. W. Fairweather.

Mr. Macpherson, for Saskatchewan, points out that in Manitoba, Saskatchewan and parts of B.C. there are provincial regulations that control the freight rate that trucks are to charge.

Witness thinks these regulations were undoubtedly designed to be of assistance to the railways. But his personal opinion is that they are not of much assistance.

21200

to

21201

Says proof of that will be found in the situation as it has developed in England and the U.S. It is so easy to evade the regulations as applied to large shippers; they can always ship in hired vehicles as distinct from sending



their goods via a highway operator. The regulation of trucking rates is not really of much assistance to the railway in this basic problem of uneconomic competition between the two forms of transportation.

Witness is asked if he does not believe that the fact that if it is well policed, it eliminates cut-throat competition, is of assistance to the railways. Replies he thinks that actually is probably of more harm than help, because the cut-throat competition damages the truckers a lot more than it does the railway.

Says the effect of that is that the trucker operating a high-cost service under what might be referred to as the umbrella of the railway rates, is more apt to expand his activities than he would be if he had to face the cut-throat competition from other truckers. It gives him a wider margin of profit that he can use to expand his operations. So that rate regulation at railway rate level is not an answer to this problem.

21204

Speaking for the C.S.A. witness can say most positively that the C.S.A. looks with the greatest care at the problem of seeing that its non-competitive shippers are placed in a competitive position in all markets that they can reach.

21205

Points out that freight schedules are just as carefully adjusted to meet the requirements of the individual shipper as they would be for the competitive shipper.

As far the internal problems of management are concerned, from long experience witness is convinced that the esprit de corps of the two competing organizations has a very tangible value.

21206

Witness feels that if you try to translate into economies what appear to be duplications in service, you run a grave risk of upsetting those yardsticks by which the individual guides his actions.

21208

to  
21210

Witness says that certainly there is in this highway problem a major canker that is eating at the heart of the railway industry. But feels that to the extent that that erosion can be stopped by prudent measures without any damage to the overall economy of the country, you will alter the picture very considerably.

21212

Witness says two-line rate basis has the sanction of long history and he thinks it is justifiable.

21213

Witness says the U.S.A. sees that arbitral provision in the Act as a useful implement. It has two values. One is a negative value and one is a positive. There is the protection against aggression by one company against another, to the sort of invasion in its territory that took place in the 1920's. Had the Act been on the statute book it probably would not have taken place. In the positive side of it there is provision for implementing economies.



21218

When asked if he does not think this Statute would benefit from some policing by a third party, some regulatory body, witness replies that there is policing by Parliament to the extent that Parliament is interested in it.

21219

Witness feels that railway industry is going through very difficult times, and they cannot afford to overlook opportunities for reasonable and sensible economies.

21220

Mr. Frawley, for Alberta, does not think it matters whether there is a separate tribunal or a branch of the regulatory body.

21221

Mr. Frawley would be satisfied if it was under the B.T.C. - not the R.T.C. as it is today, but a bigger and better B.T.C.

21226

Witness knows O.R.-C.R. Act was the subject of investigation, among other matters, in the Senate Inquiry of 1938.

Remembers Senate Committee of 1938 found that the recommendations of the Duff Commission "have never in fact been applied in a practical sense".

21228

When Dr. Innis asks whether complaints on the part of employees of either C.N.R. or C.P.R. about pool train arrangements etc., are justified or not, witness answers that the employees think they are. Says every economy the railway puts into effect means in the first instance that somebody goes out of employment.

21228

With reference to pooling witness has been unable to get any substantial evidence of unfairness. There was a lot of prejudice, but that is to be expected.

21230

Witness agreed passenger pooling shows estimated joint annual saving of \$972,000.

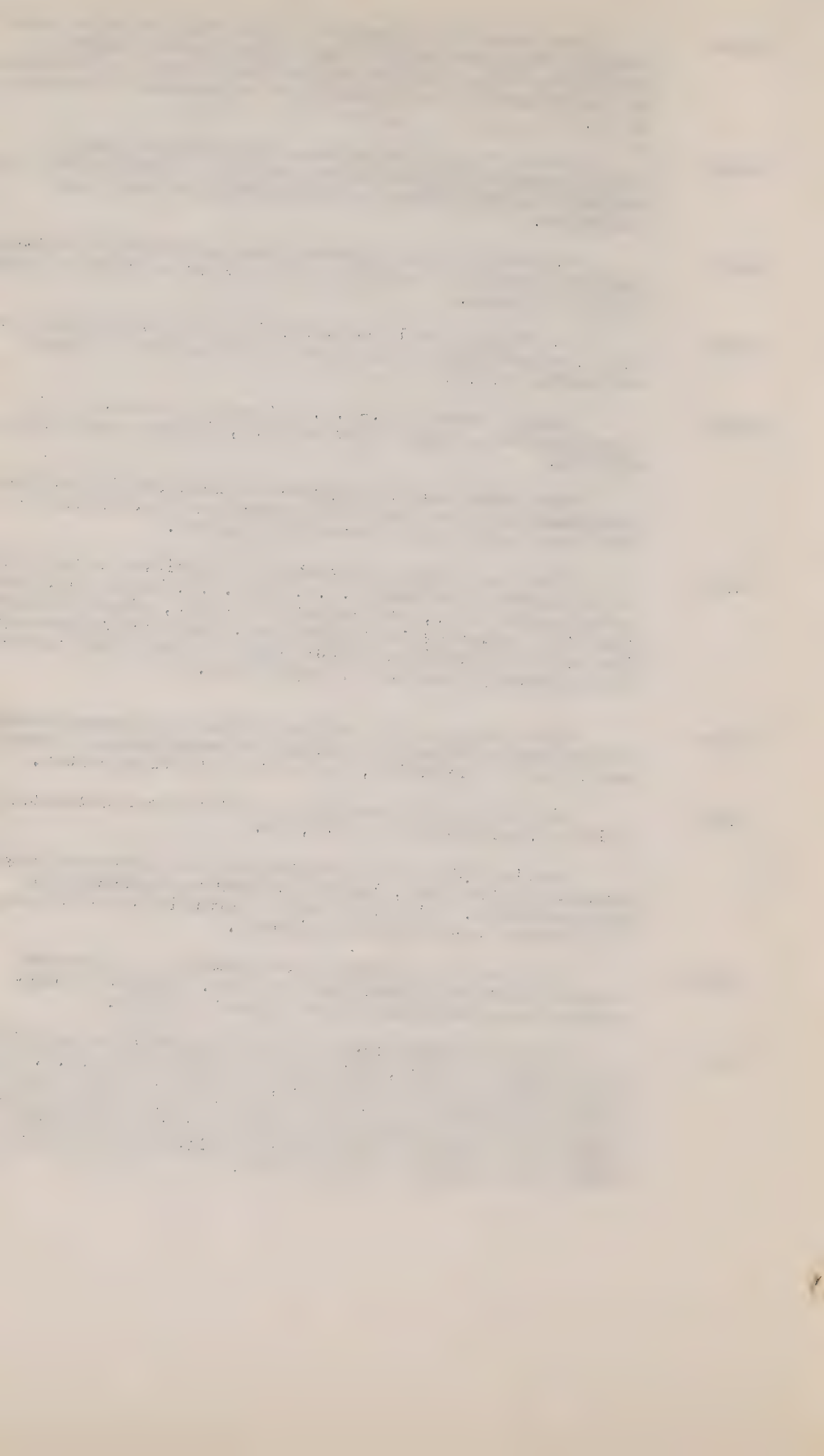
Doubts very much if during the war there was any economy in the pool, because trains were running in many sections. With fall off of traffic since the war economy has re-established itself.

21231B

Witness says agreement re pooling of passenger service continues from year to year, subject to cancellation on something like a year's notice.

21232

Asked if Joint Co-operative Committee is functioning at present time, witness says as far as C.N.R. is concerned, all they have done, is canvas their local senior officers on the regions as to what matters they thought might receive study, and they have received a sufficient number of replies to indicate that there are items that are still worth study.



21233

Witness says study re consolidation of C.N.R. and C.P.R. commercial telegraph companies went a very considerable distance. It actually went to the point of introducing enabling legislation, which was withdrawn. In this connection there is no doubt that on paper you could get substantial economies.

Witness thinks legislation was withdrawn partly because of public opposition. The public had a very lively appreciation of the value of competition.

21234

Witness says consolidation of the express departments was studied too, there they got into a difference of policy between the two systems. The C.P.R. as witness understands it uses the express department to some extent to meet highway competition in freight service; the C.N.R. does not.

21235

Mr. Brazier asks witness if his understanding that witness is not in favour of joint terminals if they can be avoided is correct. Witness replies that they have joint terminal operations at many points. Does not think that the idea that you could create a terminal company which would receive the traffic from the road haul companies and do all of the terminal operations is very practical.

21240

Witness says C.N.R. certainly intend to bend every endeavour to keep their terminal facilities adjusted to the needs of a growing Vancouver, but does not believe that you could make a case for large economies from such a large joint terminal venture as has been suggested.

2

21241

Witness thinks that in a good many of these co-operative ventures competition is ended to the extent of co-operation. If one line pulls out of a territory and abandons it to another, then there is no thought of any continuing competition in that particular field except broad market competition mentioned earlier; when you pool a substantial section of your revenues, then you also to that extent must take a realistic attitude and acknowledge that there has been some reduction in competition. As witness sees it the test is this -- whether the competition is truly wasteful, and there a very large element of judgment must enter the picture.

21244

Witness is asked by Mr. Brazier if today there were abandonments of the C.N.R. that were considered proper under the Act would C.P.R. wait until C.N.R. could make a similar sacrifice. Witness says not necessarily. Thinks it is one of those managerial problems that would have to receive consideration.



21244

Witness goes on to say it would be desirable to try and find some catching illustration on the other side, but if the economy was substantial and the need was great enough, the managerial difficulties in making a unilateral abandonment would be set aside and the abandonment would be proceeded with.

Mr. Brazier asks witness what are the difficulties of making a unilateral abandonment. Witness replies if you were managing even a small section of the property you would soon find out. How can you maintain esprit de corps among men who are only interested in their local point of view, when you proceed to take action that from their standpoint and their limited point of view is inimical to the interests of the company for which they are working, to say nothing of the fact that it affects them personally?

21245

Witness would not say that senior management of the railway would give greater consideration to local claims for remaining an operating part of the railway rather than the over-all picture. Does consider that it is a matter which might very properly receive managerial consideration. But says you would have to balance it up, and if the economy was small and the damage to the morale was large, then would consider the game not worth the candle. On the other hand, if the economy was large and the damage to the morale was estimated as relatively insignificant, would say go ahead with the abandonment.

21246

Mr. Covert points out that back in 1932 at the time of the Senate investigation the witness considered that savings up to \$30 million could be made.

Witness says that statement needs qualification. That that \$30 million referred to were economies that would be possible if you were prepared to do the sort of things that were contemplated in a parliamentary proposal of unification.

Witness says the \$30 million has to be reviewed as against a background of a purely theoretical picture of what might be under some set of premises.

21248

to

21249

Mr. Covert queries witness on possibility of any substantial economies in the future and asks if he has any particular examples in mind.

Witness replies that he already mentioned this manifesting of freight to save excessive haul. Thinks this is one. Thinks there may be opportunities to do something with passenger pooling. Then there are some line abandonments that should be looked into and reviewed. These are some of the things C.N.R. propose to study. They are not studying anything at the moment.



21250

Witness cannot see why these matters should be studied as part of a freight rates case. Sees it as part of the broad problem of dealing with the railways of the country. It is a managerial problem and as such should receive attention.

21257

Mr. Covert asks witness if assessments of possible economies could be made quickly by people other than railway employees.

Witness replies that it is bad enough inside the railway where one party knows all the facts with regard to his own railway and has some knowledge or is able to appreciate the situation of the other; but if you took somebody from outside and tried to look at the matter it would take several years before they could have such a body of information with regard to the railways that they could make an intelligent study. It is not an easy job.

21259

Witness admits to Commissioner Innis that he had said previously there was a danger of the railways pricing themselves out of the market by higher rates.

Witness says might be inferred that because his product went up, the value proportionate to the inflation, that therefore shipper should stand increase in rates. That would be true but what is happening in this country and in the U.S. is something very much worse than that. You have a situation where the tapered rate structure which was so essential to the development of this country is being warped, and it is because you have to meet the over-all position and because you cannot get your net revenues in the short haul and high valued field on account of highway competition; you necessarily have to load that on the marginal producer and that is the deadly part of this situation.

21261

Mr. Covert asks witness if recapitalization means that railway will no longer have to pay attention to public opinion which they must do now.

Witness says no, he thinks actually railway's public relations are undoubtedly influenced adversely by their large deficit position. Thinks that would be sweetened if they had an adjustment, but C.N.R. does not make any attempt to condition Parliament to the acceptance of their deficit.





USE ACCO PAPER

FASTENERS FOR BINDING

**ACCOPRESS BINDER**

No. **BG 3007** EMBOSSED

MADE BY  
**ACCO CANADIAN CO. LIMITED**  
TORONTO, ONTARIO

